

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Tuesday, March 19, 2013 5:11 PM
To: Bull, Jonathan
Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Will do. Again, much appreciated—by all.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull, Jonathan [mailto:Bull.Jonathan@epa.gov]
Sent: Tuesday, March 19, 2013 5:09 PM
To: Civins, Jeff
Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

It's no problem Jeff. I don't think that will be an issue again but if something comes up please call me.

From: Civins, Jeff [mailto:Jeff.Civins@haynesboone.com]
Sent: Tuesday, March 19, 2013 4:59 PM
To: Bull, Jonathan
Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Great. Thanks so much!

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull, Jonathan [mailto:Bull.Jonathan@epa.gov]
Sent: Tuesday, March 19, 2013 4:58 PM
To: Civins, Jeff
Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Jeff,

I have checked and the two we have already addressed are the only instances, so this should not be an issue.

Jon

From: Civins, Jeff [<mailto:Jeff.Civins@haynesboone.com>]
Sent: Tuesday, March 19, 2013 4:52 PM
To: Bull, Jonathan
Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Hi, Jon,

In a call with the company the other day, the issue came up as to whether there may have been unacceptability notifications made to regions other than Region 2 and Region 3. The reason we knew about the notifications to those 2 regions was because we were contacted by folks on the ground and told an issue existed. Would it be possible to check and see if other notifications may have gone out of which we're unaware? Thanks!

haynesboone
Jeff Civins
Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Civins, Jeff
Sent: Thursday, March 14, 2013 9:20 AM
To: 'Bull, Jonathan'
Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Thanks, Jon. Just got word from Clean Harbors that they're back on track to receive the wastes. Again, the company is very appreciative of your efforts. It will be good to focus on the outstanding issues.

haynesboone
Jeff Civins
Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull, Jonathan [<mailto:Bull.Jonathan@epa.gov>]
Sent: Wednesday, March 13, 2013 6:29 PM

To: Civins, Jeff

Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

No problem Jeff. It shouldn't have happened again. This should fix the issue and we can focus on the rest.

From: Civins, Jeff [<mailto:Jeff.Civins@haynesboone.com>]

Sent: Wednesday, March 13, 2013 6:00 PM

To: Bull, Jonathan

Cc: Barra, Michael; Murray, Suzanne; Tidmore, Guy; King, Roxanne

Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Jon,

Many thanks for your prompt follow-up. Thanks also to Ron for following up with Gary. On landing, I had listened to your voice mail and immediately called asked Phil Retallick of Clean Harbors to let them know. The company is very appreciative of your efforts on its behalf. Phil will follow up to get the shipment of waste back on track. I asked Phil to let me know if there were any further concerns.

As we've discussed, Clean Harbors looks forward to working with the Region to resolve our outstanding issues.

Thanks again for again helping us.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull, Jonathan [<mailto:Bull.Jonathan@epa.gov>]

Sent: Wednesday, March 13, 2013 4:58 PM

To: Civins, Jeff

Cc: Barra, Michael; Murray, Suzanne; Tidmore, Guy; King, Roxanne

Subject: RE: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Jeff

Thanks for your call today. I left you a voice mail on your cell phone a few minutes ago. Ron Shannon spoke again this afternoon with Gary Morton and explained that the facility's status is acceptable to receive waste under section 300.440 and that the status has not changed.

I believe this should resolve this issue now and going forward.

Jon Bull

Jonathan Bull

Office of Regional Counsel

U.S. Environmental Protection Agency, Region 6

1445 Ross Avenue, Suite 1200

MC 6RC-ER
Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

NOTICE: This email and its attachments may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please delete the copy you received and do not print, copy, retransmit, disseminate, or otherwise use the information.

From: Civins, Jeff [<mailto:Jeff.Civins@haynesboone.com>]
Sent: Wednesday, March 13, 2013 2:22 PM
To: Barra, Michael; Bull, Jonathan
Cc: 'Donahue, Timmery A'; RETALLICK, PHILLIP G; McKinney, Carie G.; Murray, Suzanne
Subject: Urgent--Clean Harbors El Dorado March 13, 2013 Unacceptability Notification

Jon and Mike,

This email is about a highly disturbing incident on which we'd appreciate your assistance, because it relates to an issue we'd understood had been addressed and put to bed. The matter involves the issue of whether the Clean Harbors El Dorado facility (CHEL) is unacceptable to receive offsite CERCLA wastes under 40 CFR 300.440.

Back in January and February, we discussed the fact no such determination had been made and that the Region had erroneously notified EPA Region 2 that CHEL was the subject of an unacceptability determination. With your assistance, that error was corrected by the Region's sending of a February 4 email to EPA Region 2 acknowledging that no such determination had been made. See February 4 email immediately below. In subsequent communications, we were assured that no such determination would be made without following appropriate procedures, including notice to CHEL, and that there was no plan to invoke those procedures at this time.

I just learned, however, contrary to our understanding, that the same individual who originally had informed EPA Region 2 that CHEL was unacceptable has just now given a similar notice to EPA Region 3, regarding the ability of CHEL to receive CERCLA wastes from the Galaxy Spectron Site. The pertinent email correspondence, which I received from in-house counsel at Clean Harbors today, is copied below my signature line.

Gary Morton, a representative of EPA Region 3, reports--in an email dated today--that: "I Spoke with Wilkin Shannon of EPA Region 6 in Dallas Texas. Clean Harbors El Dorado Incineration Facility; El Dorado, Arkansas is not acceptable to receive waste. Please do not send waste to the facility." As a result, alternative plans for disposal of that material are being considered.

As we previously discussed, the financial impact of a nonacceptability determination on CHEL would be substantial. Based on our prior communications, we understood no such determination had been made, was being made, or, without following appropriate procedures, would be made. Clean Harbors is rightfully concerned that either our prior understanding has not been communicated to Region staff or that that understanding is being ignored. In either case, we again would appreciate your assistance--this time in having the Region notify EPA Region 3, as it did Region 2, that there is no basis for an unacceptability determination and in assuring us that no such determinations will be sent out in the future unless pertinent procedures have been followed and the regulatorily-required showing made.

I look forward to hearing back from you. This matter, as you can appreciate, is of some urgency. Thanks again to you both.

Jeff

-----Forwarded by Jonathan Bull/R6/USEPA/US on 02/04/2013 01:49PM -----

To: Beckett Grealish/R2/USEPA/US@EPA

From: Guy Tidmore/R6/USEPA/US

Date: 02/04/2013 01:01PM

Cc: Jonathan Bull/R6/USEPA/US@EPA, Roxanne King/R6/USEPA/US@EPA

Subject: Off-site determination

Beckett,

The purpose of this email is to clarify previous communications between yourself and our Regional Off-site Coordinator, Ron Shannon. At this point in time, there has not been a final determination on the unacceptability of Clean Harbors in El Dorado, Arkansas (CHED), in accordance with Title 40, Part 300.440, therefore, CHED would at this time be deemed acceptable for the receipt of off-site waste. We are currently evaluating violations discovered at CHED and their relation to receiving units, and evaluating the facility's ability to return those units to compliance. If the facility status changes, we will notify you utilizing the standard operating protocols.

Guy Tidmore, Chief (6EN-HE)
Compliance Enforcement Section
Hazardous Waste Enforcement Branch
(214)665-3142 direct
(214)789-2586 cell
(214)665-7446 fax

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

vCard | Bio | Website

From: Donahue, Timmery A [<mailto:donahue.timmery@cleanharbors.com>]

Sent: Wednesday, March 13, 2013 1:28 PM

To: Civins, Jeff

Cc: RETALLICK, PHILLIP G

Subject: FW: Fwd: facility approval

Timmery Donahue
Attorney
Clean Harbors Environmental Services
42 Longwater Drive
PO Box 9149
Norwell, MA 02061-9149
Office: 781.792.5172
Fax: 781.792.5903
Email: donahue.timmery@cleanharbors.com
Web: www.cleanharbors.com

CONFIDENTIALITY NOTICE: This electronic mail message and attached documents contain information from the Clean Harbors Law Department which is confidential and/or privileged. The information is intended only for the use of the

individual or entity named above. If you are not the intended recipient, or if you received this message by mistake, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this electronic mail information is strictly prohibited. Thank you.

From: Jonathan Black [<mailto:jonathan.black@lawyer.com>]
Sent: Wednesday, March 13, 2013 11:45 AM
To: Donahue, Timmerly A
Subject: Fw: Fwd: facility approval

Hi Timmerly.....the Galaxy Spectron Site consultant is looking for an alternate CH facility for lab pack waste as El Dorado not approved by EPA....see below....I don't recognize any CH names on the email chain, but you might. Please let me know who will follow up with O'Brien and Gere on this change.

Thanks.

----- Original Message -----

From: David Fennimore
Sent: 03/13/13 11:22 AM
To: Jonathan Black
Subject: Fwd: facility approval

Fyi

Sent from my iPhone

Begin forwarded message:

From: Jennifer DiJoseph <jdijoseph@advancedgeoservices.com>
Date: March 13, 2013 11:05:40 AM EDT
To: "dfennimore@earthdatane.com" <dfennimore@earthdatane.com>
Subject: FW: facility approval

Dave - Please see below. EPA says that we cannot send the non-petroleum liquids to Clean Harbors in El Dorado, Arkansas. We'll need the name of an alternate Clean Harbors facility, or we can use the facility that OBG/Lewis originally proposed in their bid.

Thanks

Jen

From: Paul Mazurkiewicz [<mailto:Paul.Mazurkiewicz@obg.com>]
Sent: Wednesday, March 13, 2013 10:49 AM
To: Jennifer DiJoseph
Cc: Joe Barker; Ken Jones
Subject: FW: facility approval

jen:

please see email from epa regarding proposed clean harbors facility for disposal/incineration of non-petro wastes. I have contacted Lewis to get name of the facility they proposed for the work on this project. If you have any other clean harbors facilities which can accept the waste, please forward that information & I will request review/approval from epa for the facility(s).

From: Morton, Gary [<mailto:Morton.Gary@epa.gov>]
Sent: Wednesday, March 13, 2013 10:41 AM
To: Paul Mazurkiewicz
Subject: RE: facility approval

I Spoke with Wilkin Shannon of EPA Region 6 in Dallas Texas. Clean Harbors El Dorado Incineration Facility; El Dorado, Arkansas is not acceptable to receive waste. Please do not send waste to the facility.

From: Paul Mazurkiewicz [<mailto:Paul.Mazurkiewicz@obg.com>]
Sent: Monday, March 04, 2013 10:15 AM
To: Morton, Gary
Subject: Re: facility approval

Thanks

Sent from my iPhone

On Mar 4, 2013, at 10:05 AM, "Morton, Gary"
<Morton.Gary@epa.gov<<mailto:Morton.Gary@epa.gov>>> wrote:
I requested the acceptability of the facility again today.

From: Morton, Gary
Sent: Monday, March 04, 2013 10:03 AM
To: Wilkin, Andrew
Cc: 'Paul Mazurkiewicz '
Subject: FW: facility approval

Good Morning Wilkin,

Maybe this request slipped through the cracks. I am under the gun on this request, I need a response as soon as possible.

Thank You

Gary Morton

On Feb 20, 2013, at 11:16 AM,
"Morton.Gary@epamail.epa.gov<<mailto:Morton.Gary@epamail.epa.gov>>"
<Morton.Gary@epamail.epa.gov<<mailto:Morton.Gary@epamail.epa.gov>>> wrote:
Good Morning Wilkin,

I have a proposal to send lab pack wastes to: Clean Harbors El Dorado Incineration Facility; El Dorado, Arkansas. Could you provide the acceptability of the facility?

From: Paul Mazurkiewicz [<mailto:Paul.Mazurkiewicz@obg.com>]
Sent: Monday, March 04, 2013 9:19 AM
To: Morton, Gary
Cc: Shannon, Wilkin
Subject: Re: facility approval

Is this facility approved?

Sent from my iPhone

On Feb 20, 2013, at 11:16 AM,
"Morton.Gary@epamail.epa.gov<<mailto:Morton.Gary@epamail.epa.gov>>"
<Morton.Gary@epamail.epa.gov<<mailto:Morton.Gary@epamail.epa.gov>>> wrote:

Good Morning Wilkin,

I have a proposal to send lab pack wastes to: Clean Harbors El Dorado Incineration Facility; El Dorado, Arkansas. Could you provide the acceptability of the facility?

Thank you.

Gary Morton

----- Forwarded by Gary Morton/R3/USEPA/US on 02/20/2013 11:10 AM -----

From: Gary Morton/R3/USEPA/US

To: Wilkin Shannon/R6/USEPA/US@MSO365
Date: 02/20/2013 11:10 AM
Subject: Fw: facility approval

----- Forwarded by Gary Morton/R3/USEPA/US on 02/20/2013 11:09 AM -----

From: Paul Mazurkiewicz <Paul.Mazurkiewicz@obg.com<mailto:Paul.Mazurkiewicz@obg.com>>
To: Gary Morton/R3/USEPA/US@EPA
Date: 02/05/2013 11:24 AM
Subject: FW: facility approval

this was the other facility we discussed

From: Paul Mazurkiewicz
Sent: Thursday, January 31, 2013 8:37 AM
To: Morton.Gary@epamail.epa.gov<mailto:Morton.Gary@epamail.epa.gov>
Subject: facility approval

gary:

we are proposing to send some lab pack wastes to: Clean Harbors El Dorado Incineration Facility; El Dorado, Arkansas

please let us know if this facility is acceptable

This email, including any attachment(s) to it, is confidential and intended solely for the use of the individual or entity to which it is addressed. If you have received this email in error, please notify the sender. Note that any views or opinions presented in this email are solely those of the author and do not represent those of O'Brien & Gere. O'Brien & Gere does not accept liability for any damage caused by any virus transmitted by this email. The recipient should check this email and any attachments for the presence of viruses.

This email, including any attachment(s) to it, is confidential and intended solely for the use of the individual or entity to which it is addressed. If you have received this email in error, please notify the sender. Note that any views or opinions presented in this email are solely those of the author and do not represent those of O'Brien & Gere. O'Brien & Gere does not accept liability for any damage caused by any virus transmitted by this email. The recipient should check this email and any attachments for the presence of viruses.

This email, including any attachment(s) to it, is confidential and intended solely for the use of the individual or entity to which it is addressed. If you have received this email in error, please notify the sender. Note that any views or opinions presented in this email are solely those of the author and do not represent those of O'Brien & Gere. O'Brien & Gere does not accept liability for any damage caused by any virus transmitted by this email. The recipient should check this email and any attachments for the presence of viruses.

This email, including any attachment(s) to it, is confidential and intended solely for the use of the individual or entity to which it is addressed. If you have received this email in error, please notify the sender. Note that any views or opinions presented in this email are solely those of the author and do not represent those of O'Brien & Gere. O'Brien & Gere does not accept liability for any damage caused by any virus transmitted by this email. The recipient should check this email and any attachments for the presence of viruses.

Jonathan R. Black, P.C.
210 Whiting Street, Unit 6
Hingham, MA 02043
(Tel) 781-740-4250
(Fax) 781-740-4450

IRS Circular 230

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact Clean Harbors Environmental Services at 781.792.5555 and delete the material from any computer.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any

U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Friday, February 22, 2013 10:49 AM
To: Bull, Jonathan
Cc: McKinney, Carie G.
Subject: CHEL

Jon,

In our call on February 8, 2013, we agreed to provide you follow-up information regarding CHEL's carbon canister SOP forms and to identify certain tanks that CHEL monitored daily, as well as to provide the calculations that CHEL had used to establish its monitoring schedule. In my February 14th email, I provided the revised SOP and identity of tanks and explained that CHEL needed to speak with the consultant who assisted them with the monitoring schedule and that we would respond regarding that information on February 22nd. I also noted that CHEL had switched to daily monitoring of all tanks, to eliminate uncertainties associated with monitoring frequency determinations. Since then, CHEL has had the opportunity to speak with its consultant. Here's what we've been able to determine.

Prior to the June 2009 inspection, CHEL monitored all of the carbon canisters weekly based on the requirements of the RCRA permit issued in 2008. The RCRA permit allowed monitoring of some tanks every 2 weeks, but CHEL chose to monitor all of the tanks weekly. This schedule was specified in the application for the 2008 permit renewal. CHEL and its consultant have reviewed their files and have not been able to find the calculations or data on which this monitoring schedule was based. CHEL suspects that the monitoring schedule was developed sometime in the early 1990s when the regulations first went into effect and prior to 2006 when Clean Harbors became owner of the company. The established monitoring schedule was carried over into the 2008 permit renewal application.

During the May and June of 2009 EPA inspection, the inspector noted a concern with the frequency of monitoring of the carbon canisters for Tank 15 and that "the facility needs to review their carbon monitoring frequency." CHEL began daily monitoring of the carbon canisters for Tank 15 at that time. In September 2009, CHEL reviewed the data regarding Tank 15 and determined the failures were caused by faulty valves and regulators on the nitrogen blanketing system. It modified piping to correct the mechanical failure. After the canisters passed daily monitoring for 30 days in a row, CHEL returned to weekly monitoring.

In November 2009, canisters associated with Tanks 12 and 15 failed 3 weeks in a row and CHEL put them on daily monitoring. As with Tank 15, CHEL monitored these canisters daily until they passed 30 days in a row and then resumed weekly monitoring. CHEL implemented this procedure for all of its carbon monitoring, that is, if the canisters for a tank failed 3 weeks in a row, CHEL would monitor daily until they passed 30 days in a row and then would return to weekly monitoring.

In November 2009, the inspector also requested more information on the procedures for carbon canister monitoring. CHEL responded by providing the RCRA permit requirements and explained that it kept records of pass or fail for each tank, but did not record the actual concentration measurements for each carbon canister. The inspector instructed CHEL to create a document to help track the pass and fail determinations. CHEL instituted record keeping procedures in accordance with these instructions.

In November 2011, EPA conducted another inspection of the facility and noted that the carbon canister monitoring spreadsheets showed some canisters failing more frequently than others. The inspector requested and received additional information on Tanks 12, 15, and 604. In response to the inspector's comments, CHEL immediately began monitoring these 3 tanks daily and did not return to weekly monitoring until they had passed 30 days in a row.

As noted, on February 8, 2013, in response to EPA's comments, CHEL immediately began daily monitoring of the canisters associated with the identified tanks. On February 14, 2013, following our call, CHEL began daily monitoring of

the canisters of all tanks. CHEL will continue daily monitoring until enough data is collected to run a statistical analysis of the carbon breakthrough frequency and revise the monitoring procedures accordingly.

We'd be happy to answer any further questions you might have.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Civins, Jeff

Sent: Thursday, February 14, 2013 4:55 PM

To: 'Bull.Jonathan@epamail.epa.gov'

Cc: McKinney, Carie G.

Subject: CHEL

Jon,

In our call Friday, we promised to provide certain follow-up information, relating to one of the SOP forms, the identification of certain tanks, and the carbon canister capacity-related calculations for determining monitoring frequency. As we discussed yesterday, this email addresses the first two items; we will provide you information concerning the third—the calculations—by the 22nd of this month after we've had an opportunity to speak with the consultant who assisted us, who is presently out of the office.

As to the form, attached is CHEL's SOP that includes the revised inspection form that conforms to the text's provision for changeouts within 24 hours of detected breakthroughs. We also agreed to identify the tanks that CHEL was monitoring daily. Those tanks were numbers 608, 013, 602, 605, 015, 012, and 604. CHEL began daily testing of those tanks on Friday following our call. After further discussions, CHEL decided to eliminate the uncertainty associated with monitoring frequency determinations and to switch to daily monitoring of all tanks with carbon canisters. The attached SOP reflects that revision.

Thanks again for arranging the call and for you and Guy and Roxanne in assisting us in working through these issues.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Thursday, February 14, 2013 4:55 PM
To: Bull, Jonathan
Cc: McKinney, Carrie G.
Subject: CHEL
Attachments: Monitoring and Maintaining Carbon Canister SOP.PDF

Jon,

In our call Friday, we promised to provide certain follow-up information, relating to one of the SOP forms, the identification of certain tanks, and the carbon canister capacity-related calculations for determining monitoring frequency. As we discussed yesterday, this email addresses the first two items; we will provide you information concerning the third—the calculations—by the 22nd of this month after we've had an opportunity to speak with the consultant who assisted us, who is presently out of the office.

As to the form, attached is CHEL's SOP that includes the revised inspection form that conforms to the text's provision for changeouts within 24 hours of detected breakthroughs. We also agreed to identify the tanks that CHEL was monitoring daily. Those tanks were numbers 608, 013, 602, 605, 015, 012, and 604. CHEL began daily testing of those tanks on Friday following our call. After further discussions, CHEL decided to eliminate the uncertainty associated with monitoring frequency determinations and to switch to daily monitoring of all tanks with carbon canisters. The attached SOP reflects that revision.

Thanks again for arranging the call and for you and Guy and Roxanne in assisting us in working through these issues.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP

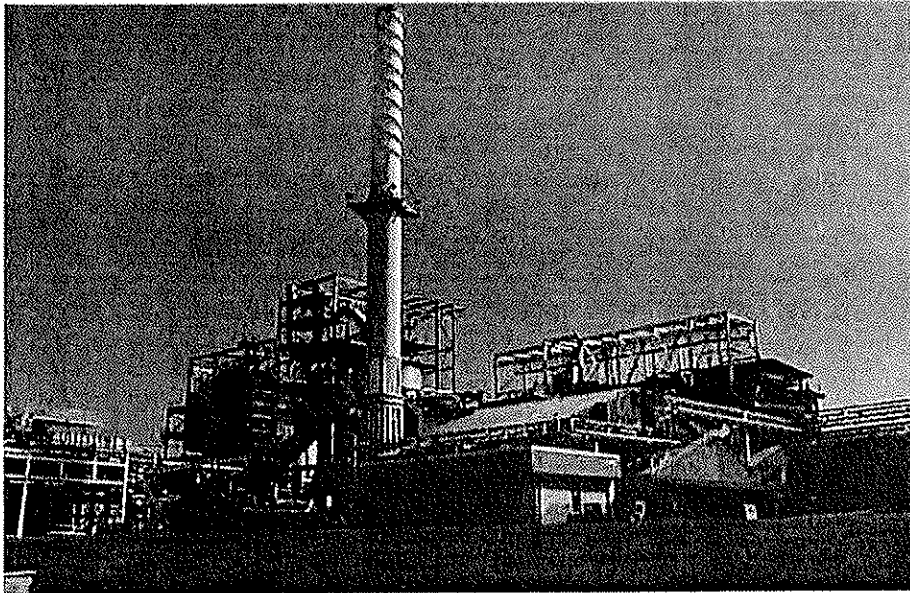
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

vCard | Bio | Website

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.



**Monitoring and Maintaining Carbon Canister
Fugitive Emissions at Tank Farms Work Instructions
Standard Operating Procedure
El Dorado Facility
El Dorado, AR**

TITLE: Monitoring and Maintaining Carbon Canister for Fugitive Emissions at Tank Farms			
Facility: Clean Harbors El Dorado	Prepared by: Craig Hudson	SOP Number: 69EL-104-174-04	Page 2 of 4
Reviewed By: William Simmons	Title: Maintenance Manager	Issue Date: 8/21/2010	
Reviewed By: Russell Hargiss	Title: Health and Safety Manager	Revision Number and Date: 4, 11/20/2011 / 3, 2/11/2013	
Approved By: Dan Roblee	Title: General Manager	Next Review Date: 01/24/2014	

1.0 Objective

To establish the performance standard for testing and changing out of carbon canisters on volatile organic storage vessels which fall under 40 CFR Part 60, Subpart Kb as well as RCRA 40 CFR Part 264 Subpart CC.

2.0 Site Specific Terms

Carbon canisters are used for filtering tanks emissions, tanks are used for fuel blending for Waste Fire Boiler, Kilns, and SCC

3.0 Responsibilities

The General Manager will ensure that all employees are trained and knowledgeable regarding the proper operating procedures.

The Maintenance Manager is responsible for monitoring, and enforcing this procedure with the employees.

Employees are responsible for following and adhering to safe work practices and all provisions found in this procedure.

4.0 Prerequisites

Health and Safety:

- 1) See Appendices, Review the Job Hazard Analysis, PPE Hazard Assessments
- 2) LOTO, confined space entry, line break and hot work procedure training

5.0 Procedure

5.1 Fugitive Emission Monitor

- a) Calibrate test equipment (as prescribed by the manufacturer) each time before making checks and rechecks.
- b) Perform weekly inspections of mechanical seals on pumps.
- c) Monitor all of the tank farms (Day Feed Tanks, Lower Tanks Farms, and Solvent Recovery Tanks) carbon filters once daily.
- d) Identify leak points and create a corrective work order, follow up on repairs by retesting for compliance within the 24-hour timeframe required under the regulations.

TITLE: Monitoring and Maintaining Carbon Canister for Fugitive Emissions at Tank Farms			
Facility: Clean Harbors El Dorado	Prepared by: Craig Hudson	SOP Number: 69EL-104-174-03	Page 3 of 4

- e) Update log of process equipment database of completed checks, record new or retested check points. Send results to Compliance Department via email.

5.2 Maintaining failed Carbon Canisters

- a) Obtain new carbon from central using work order (copy is attached).
- b) Follow the PPE Procedure.
- c) Remove lid ring and lid from carbon canister to access used / spent carbon.
- d) Empty out all used / spent carbon from canister by using a metal bucket (5-gal) and put in an empty (55-gal fiber), if spent carbon contains liquid insure empty fiber is lined with plastic to prevent any possible leakage.
- e) After emptying the canister of all carbon ensure there is no liquid in bottom of canister, if there is any liquid found in the canister contact the operator and or supervisor, if no liquid is found proceed with putting new carbon in canister.
- f) Open new drum of carbon, empty new carbon in to canister by using a bucket (5-gal) or approved method by supervisor (boom lift) , only one drum of carbon per canister.
- g) After emptying new carbon into canister, re-install the canister lid and ring, ensuring lid ring is tight to prevent any leaks.
- h) Clean all carbon from outside canister and/or ground that may have spilled from the carbon change. Confirm Grounding cables are properly connected.
- i) Notify supervisor when carbon change is complete and turn in work order completed.
- j) Notify fugitive emission monitor of completion.
 - a. Re test carbon and if all canisters pass- record time, date, and submit per work order and ECAO form (F104-174 Rev 1).
 - b. Re test carbon and if canister **FAILS:**
 - i. Tank is removed from FILL service.
 - ii. Communication with operations is made that the contents of the vessel is to be processed (incinerated) as a priority.

TITLE: Monitoring and Maintaining Carbon Canister for Fugitive Emissions at Tank Farms			
Facility: Clean Harbors El Dorado	Prepared by: Craig Hudson	SOP Number: 69EL-104-174-04	Page 4 of 4

- iii. All efforts will be made to define causes of failure (gassing) and corrections put into place before vessel is returned to (filling) service.
- iv. Once the Tank is re initiated into service testing of carbon will be performed immediately and monitored appropriately (daily).
- k) All removed spent carbon canisters will be incinerated.

6.0 Consequences of Deviations

- Personal injury
- Regulatory violations and/or fines
- Damaged agency relations
- Adverse harm to the environment and increased risk to human health
- Disciplinary actions up to and including termination
- Possible down time / loss of production

7.0 Appendices

Emissions Corrective Action Order Form (F104-174 Rev 1)

Sample tracking and work order forms

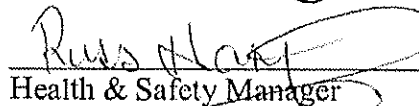
Quiz – See file “Quiz – Maintaining Carbon Canister.doc”

Job Hazard Analysis – See file “JHA – Maintaining Carbon Canister.doc”

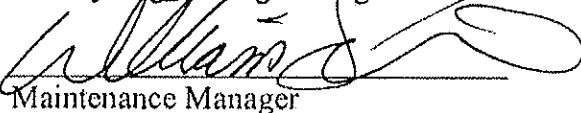
PPE Hazard Assessment – See file “PPE – Maintaining Carbon Canister.doc”

Approvals


General Manager


Health & Safety Manager


Facility Engineering Manager


Maintenance Manager


Incineration Manager


Compliance Manager


Facility Operations Manager


Facility Marketing Manager

EMISSIONS CORRECTIVE ACTION ORDER

DATE.....

ECAO NUMBER.....

ISSUED TO.....

WORK ORDER

CORRECTIVE ACTION REQUESTED

Change Charcoal

EQUIPMENT NUMBER.....

POINT NUMBER.....

TAG NUMBER.....

PRIORITY CODE..... 1

COMPLIANCE TIME.....23 hours and 59 minute

REQUESTED BY.....

REMARKS / COMMENTS.....

COMPLETION DATE..... / /

DATE CLOSED..... / /

TECH SIGNATURE _____



Clean Harbors El Dorado-Region 6 Potential Unacceptability Determination

Civins, Jeff to: Jonathan Bull, Michael Barra

01/29/2013 02:01 PM

Cc: "McKinney, Carie G."

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>

To: Jonathan Bull/R6/USEPA/US@EPA, Michael Barra/R6/USEPA/US@EPA

Cc: "McKinney, Carie G." <Carie.McKinney@haynesboone.com>

History: This message has been replied to and forwarded.

3 attachments



Clean Harbors_Carbon Canister Log.pdf



Clean Harbors_Carbon Canister Log_Vol 2.pdf



Clean Harbors_Standard Operating Procedure.pdf

Hi, Jon and Mike,

Thanks again for working with us to resolve this matter. As promised, below is more detailed information confirming that Clean Harbors' El Dorado facility (CHEL) is not out of compliance with 40 CFR Part 264 CC, as well as other relevant information. Because of the urgency of this matter, we request that you confirm your receipt of this email.

As we discussed, we are in the process of responding to the Region's November 27, 2012 RCRA section 3007 information request and will provide you responses to questions 1 through 5 on or before January 31, 2012 and to the remainder of the questions, on or before February 28, 2012. Though there is some overlap between those questions and our discussions regarding the Region's potential CERCLA waste unacceptability determination, we are treating the two separately and our focus in this response is on the allegation that the facility is out of compliance with 40 CFR Part 264 CC.

In our initial call regarding this matter, we noted that we have been working in good faith with the agency to address its concerns in a prescribed and orderly process, including through our responses to the information request, and that this agency action--an unacceptability determination communicated to Region 2--came outside the lines of our ongoing discussions and apparently without regard to them. In our call, we were unclear what the basis for the potential unacceptability determination was. Your September 21, 2012 letter, responding to our March 16, 2012 letter, alleged three violations--pertaining to management of our saturator brine, compliance with 40 CFR

As we mentioned, a check with the facility confirmed that it is in compliance and had been in compliance with those Subpart CC requirements since Roxanne's inspection in November of 2011. Prior to that time, the facility did have in place a standard operating plan or SOP to meet the requirements of Subpart CC as it related to the changing out of carbon canisters. During her November 2011 inspection, Roxanne identified a shortcoming with that SOP, namely, that it required that change outs be conducted the next day when the regulations required that change outs be conducted within 24-hours. CHEL revised its procedures immediately, discussed these changes with Roxanne before she concluded her inspection, and formally revised its SOP on 11/20/11 to require that change outs be conducted within 24 hours and that the time for change outs be recorded down to the minute. Supporting documentation is attached, which also indicates that throughout 2012, there have been no violations of this requirement. We will be providing additional pertinent information in response to question number 4 of the information request later this week.

We request that the Region immediately inform Region 2 that Region 6 either has not issued an unacceptability determination or, if it has, has withdrawn it, and that Region 2 may ship the Evor Phillips wastes to CHEL. The information that we've submitted addresses the Region's concern regarding 40 CFR Part 264 Subpart CC (as well as the other two alleged violations), and, under 40 CFR section 300.440, there is no basis for the Region to hold up those shipments pending its determination of compliance because an unacceptability determination, even were there to be a factual basis for it (which there is not because there is no ongoing violation), requires that the agency first give notice and an opportunity to respond and correct.

We again very much appreciate your assistance in resolving this matter, and we look forward to receipt of confirmation that the Region's ban has been lifted. We look forward to working with you also to respond to the information request and to work through the remaining issues, including in particular, the issue regarding our manufacture and sale of brine.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue

vCard | Bio | Website

From: Civins, Jeff

Sent: Thursday, January 24, 2013 5:36 PM

To: 'Bull.Jonathan@epamail.epa.gov'

Cc: Barra.Michael@epamail.epa.gov

Subject: RE: Clean Harbors El Dorado

Thanks, Jon. I look forward to speaking with you then.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

vCard | Bio | Website

From: Bull.Jonathan@epamail.epa.gov [mailto:Bull.Jonathan@epamail.epa.gov]

Sent: Thursday, January 24, 2013 5:21 PM

To: Civins, Jeff

Cc: Barra.Michael@epamail.epa.gov

Subject: Re: Clean Harbors El Dorado

Jeff

I understand your points and concerns, and I will plan to speak with you about them when I can get back to you.

Jonathan Bull

Office of Regional Counsel

U.S. Environmental Protection Agency, Region 6

1445 Ross Avenue, Suite 1200

MC 6RC-ER

Dallas, Texas 75202-2733

Tel. (214) 665-8597

bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>

To: Jonathan Bull/R6/USEPA/US@EPA

Cc: "McKinney, Carrie G." <Carie.McKinney@haynesboone.com>

Date: 01/24/2013 04:38 PM

Subject: Clean Harbors El Dorado

confidential,
may be privileged and should be read or retained only by the
intended
recipient. If you have received this transmission in error,
please
immediately notify the sender and delete it from your system.

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Tuesday, January 29, 2013 1:59 PM
To: Bull, Jonathan; Barra, Michael
Cc: McKinney, Carrie G.
Subject: Clean Harbors El Dorado-Region 6 Potential Unacceptability Determination
Attachments: Clean Harbors_Carbon Canister Log.pdf; Clean Harbors_Carbon Canister Log_Vol 2.pdf; Clean Harbors_Standard Operating Procedure.pdf

Hi, Jon and Mike,

Thanks again for working with us to resolve this matter. As promised, below is more detailed information confirming that Clean Harbors' El Dorado facility (CHEL) is not out of compliance with 40 CFR Part 264 CC, as well as other relevant information. Because of the urgency of this matter, we request that you confirm your receipt of this email.

As we discussed, we are in the process of responding to the Region's November 27, 2012 RCRA section 3007 information request and will provide you responses to questions 1 through 5 on or before January 31, 2012 and to the remainder of the questions, on or before February 28, 2012. Though there is some overlap between those questions and our discussions regarding the Region's potential CERCLA waste unacceptability determination, we are treating the two separately and our focus in this response is on the allegation that the facility is out of compliance with 40 CFR Part 264 CC.

In our initial call regarding this matter, we noted that we have been working in good faith with the agency to address its concerns in a prescribed and orderly process, including through our responses to the information request, and that this agency action--an unacceptability determination communicated to Region 2--came outside the lines of our ongoing discussions and apparently without regard to them. In our call, we were unclear what the basis for the potential unacceptability determination was. Your September 21, 2012 letter, responding to our March 16, 2012 letter, alleged three violations--pertaining to management of our saturator brine, compliance with 40 CFR Part 264 Subpart CC, relating to the use of carbon canisters on permitted tanks, and the storage of unauthorized wastes in 2009-2010. After checking into this matter, you informed us that the concern giving rise to the Region's unacceptability determination related to the facility's compliance with 40 CFR Part 264 Subpart CC.

The email chain below indicates that, in response to a Region 2 request to verify the acceptability of CHEL to handle wastes from the Evor Phillips Superfund Site in Old Bridge, NJ, Region 6 had informed Region 2 that "...right now Clean Harbors El Dorado, AR has permit and compliance issues that we are using to give them an unacceptability determination." As discussed below, 40 CFR section 300.440 prescribes detailed procedures for an unacceptability determination, including due process rights to notice and an opportunity to respond and to correct. These due process rights are of critical importance because of the significant economic and reputational consequences that can result from an unacceptability determination. CHEL was denied that due process and presently, based upon that email to EPA Region 2, CHEL is being wrongfully denied the opportunity to treat wastes generated at a CERCLA site in Region 2 that it is authorized to treat.

As we discussed, one essential substantive prerequisite to an unacceptability determination is that the facility have "relevant violations at or affecting the unit ...receiving CERCLA waste." Leaving aside

the issue of whether any of the three alleged violations were relevant, none--even assuming they were violations--are ongoing.

As we discussed, the allegation regarding the manufacture and sale of brine is not in issue because the Region is aware that, in an abundance of caution, CHEL ceased selling its brine in February of 2012, shutting down the metals removal process associated with its Brine Unit. The allegation regarding waste storage issue was for the period 2009-2010 and did not relate to an ongoing violation. In point of fact, there was no such violation. Your September 21, 2012 letter identified the pertinent waste codes as K049 and K099 and noted that these wastes were not permitted to be stored in tanks. K049 is on CHEL's permit and is authorized to be put in tanks. With regard to K099, upon further investigation, CHEL determined that a generic waste profile, which included almost all wastes received at the facility, was used for rainwater collected from various sumps around the facility and put into tanks; the rainwater in the sumps would not contain K099 wastes, and that code should not have been on a profile used to characterize those liquids. That waste was never present in the rainwater and therefore was never placed into the tanks. CHEL updated the waste profile to remove all non-applicable waste codes. Further, CHEL provided the receivers, drum pumpers, and bulk staff specific training outlining all waste codes that cannot go into the tanks. The only potential ongoing violation alleged--and the one that formed the basis for the unacceptability determination--related to whether CHEL's use of canisters was in violation of 40 CFR Part 264 Subpart CC.

As we mentioned, a check with the facility confirmed that it is in compliance and had been in compliance with those Subpart CC requirements since Roxanne's inspection in November of 2011. Prior to that time, the facility did have in place a standard operating plan or SOP to meet the requirements of Subpart CC as it related to the changing out of carbon canisters. During her November 2011 inspection, Roxanne identified a shortcoming with that SOP, namely, that it required that change outs be conducted the next day when the regulations required that change outs be conducted within 24-hours. CHEL revised its procedures immediately, discussed these changes with Roxanne before she concluded her inspection, and formally revised its SOP on 11/20/11 to require that change outs be conducted within 24 hours and that the time for change outs be recorded down to the minute. Supporting documentation is attached, which also indicates that throughout 2012, there have been no violations of this requirement. We will be providing additional pertinent information in response to question number 4 of the information request later this week.

We request that the Region immediately inform Region 2 that Region 6 either has not issued an unacceptability determination or, if it has, has withdrawn it, and that Region 2 may ship the Evor Phillips wastes to CHEL. The information that we've submitted addresses the Region's concern regarding 40 CFR Part 264 Subpart CC (as well as the other two alleged violations), and, under 40 CFR section 300.440, there is no basis for the Region to hold up those shipments pending its determination of compliance because an unacceptability determination, even were there to be a factual basis for it (which there is not because there is no ongoing violation), requires that the agency first give notice and an opportunity to respond and correct.

We again very much appreciate your assistance in resolving this matter, and we look forward to receipt of confirmation that the Region's ban has been lifted. We look forward to working with you also to respond to the information request and to work through the remaining issues, including in particular, the issue regarding our manufacture and sale of brine.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA, Michael Barra/R6/USEPA/US@EPA
Cc: "RETALLICK, PHILLIP G" <retallick.phillip@cleanharbors.com>, "McKinney, Carie G." <Carie.McKinney@haynesboone.com>
Date: 01/25/2013 02:12 PM
Subject: Clean Harbors El Dorado

Hi, Jon and Mike,

Thank you for getting back to me this afternoon and for your efforts to help resolve this matter.

In our conversation, you clarified that the Region had not yet made any unacceptability determination and that the Region's concern related not to the alleged violations regarding brine manufacture and sale or past storage of particular wastes, but rather to use and maintenance of carbon canisters. I indicated I would be surprised if that issue had not already been addressed and that, if it hadn't, felt confident it could be immediately. As promised, after our call, I spoke with Phil Retallick, Clean Harbors' Senior Vice President for Regulatory Affairs, whom I'm copying on this email, to follow up on the status of this issue.

Phil was traveling today, but contacted the El Dorado facility and confirmed that procedures had been implemented and were in place to assure compliance with 40 CFR Part 264 Subpart CC as it relates to carbon canister operations. Phil committed to provide a more detailed report regarding these procedures next week when he's back in the office.

We would hope to have this information to you no later than Tuesday, if that's soon enough. If you need it sooner, please let me know. In the meantime, I've told the company, based on our conversation, that the Region would take no action regarding any unacceptability determination without us first having spoken.

On behalf of CHEL, thanks again for looking into this matter and helping us work to resolve it.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Civins, Jeff

Sent: Thursday, January 24, 2013 5:36 PM

To: 'Bull.Jonathan@epamail.epa.gov'

Cc: Barra.Michael@epamail.epa.gov

Subject: RE: Clean Harbors El Dorado

Thanks, Jon. I look forward to speaking with you then.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull.Jonathan@epamail.epa.gov [<mailto:Bull.Jonathan@epamail.epa.gov>]

Sent: Thursday, January 24, 2013 5:21 PM

To: Civins, Jeff

Cc: Barra.Michael@epamail.epa.gov

Subject: Re: Clean Harbors El Dorado

Jeff

I understand your points and concerns, and I will plan to speak with you about them when I can get back to you.

Jonathan Bull
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
MC 6RC-ER
Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA
Cc: "McKinney, Carrie G." <Carie.McKinney@haynesboone.com>
Date: 01/24/2013 04:38 PM
Subject: Clean Harbors El Dorado

Thank you, Jon. I appreciate your updating me. Your efforts are most appreciated. I had a few additional thoughts.

Although urgency does not appear to be a criterion under 40 CFR 300.440, timing should be relevant generally and particularly in situations in which the agency seeks to invoke the "extraordinary situation" exemption from the 60 day notice requirement--for emergencies or for egregious violations. As you know, in our case, inspections of the facility and follow-up reports were undertaken on the following dates:

Inspection - May and June 2009	Report January 2010
Inspection - May 2011	Report June 2011 (should be deleted—relates to another facility)
Inspection – Nov. 2011	Report January 2012

And, under (f), an unacceptability determination, even if issued, can be lifted if the facility demonstrates its return to physical compliance. In our case, I'm not aware that any alleged violations are ongoing that would require a return to compliance.

I am particularly concerned because we've been working in good faith with the agency to address its concerns in a prescribed and orderly process, and this issue comes out of nowhere, outside the lines of our ongoing discussions and apparently without regard to them. Though we dispute whether there've been violations, I had assumed there was no disagreement that whatever violations were alleged were not ongoing. As you know, pending resolution of the brine issue, we shut down brine product manufacturing and sale. The other alleged violations appeared to me to be of specific past incidents, not of ongoing activities. It's possible the facts are

different than what we understand them to be, but, if they are, it would be good to know so we're starting from the same point in our discussions.

Thanks again for your efforts!

haynesboone

Jeff Civins

Partner

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Friday, January 25, 2013 4:13 PM
To: Bull, Jonathan
Subject: RE: Clean Harbors El Dorado

Sounds good. I'm generally around and usually reachable on my cell.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

vCard | Bio | Website

From: Bull.Jonathan@epamail.epa.gov [mailto:Bull.Jonathan@epamail.epa.gov]

Sent: Friday, January 25, 2013 4:11 PM

To: Civins, Jeff

Subject: Re: Clean Harbors El Dorado

Thanks Jeff, I will speak with you next week.

Jonathan Bull
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
MC 6RC-ER
Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA, Michael Barra/R6/USEPA/US@EPA
Cc: "RETALLICK, PHILLIP G" <retallick.phillip@cleanharbors.com>, "McKinney, Carrie G." <Carie.McKinney@haynesboone.com>
Date: 01/25/2013 02:12 PM
Subject: Clean Harbors El Dorado

Hi, Jon and Mike,

Thank you for getting back to me this afternoon and for your efforts to help resolve this matter.

In our conversation, you clarified that the Region had not yet made any unacceptability determination and that the Region's concern related not to the alleged violations regarding brine manufacture and sale or past storage of particular wastes, but rather to use and maintenance of carbon canisters. I indicated I would be surprised if that issue had not already been addressed and that, if it hadn't, felt confident it could be immediately. As promised, after our call, I spoke with Phil Retallick, Clean Harbors' Senior Vice President

for Regulatory Affairs, whom I'm copying on this email, to follow up on the status of this issue.

Phil was traveling today, but contacted the El Dorado facility and confirmed that procedures had been implemented and were in place to assure compliance with 40 CFR Part 264 Subpart CC as it relates to carbon canister operations. Phil committed to provide a more detailed report regarding these procedures next week when he's back in the office.

We would hope to have this information to you no later than Tuesday, if that's soon enough. If you need it sooner, please let me know. In the meantime, I've told the company, based on our conversation, that the Region would take no action regarding any unacceptability determination without us first having spoken.

On behalf of CHEL, thanks again for looking into this matter and helping us work to resolve it.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Civins, Jeff

Sent: Thursday, January 24, 2013 5:36 PM

To: 'Bull.Jonathan@epamail.epa.gov'

Cc: Barra.Michael@epamail.epa.gov

Subject: RE: Clean Harbors El Dorado

Thanks, Jon. I look forward to speaking with you then.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull.Jonathan@epamail.epa.gov [<mailto:Bull.Jonathan@epamail.epa.gov>]

Sent: Thursday, January 24, 2013 5:21 PM

To: Civins, Jeff

Cc: Barra.Michael@epamail.epa.gov

Subject: Re: Clean Harbors El Dorado

Jeff

I understand your points and concerns, and I will plan to speak with you about them when I can get back to you.

Jonathan Bull

Office of Regional Counsel

U.S. Environmental Protection Agency, Region 6

1445 Ross Avenue, Suite 1200

MC 6RC-ER

Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA
Cc: "McKinney, Carrie G." <Carrie.McKinney@haynesboone.com>
Date: 01/24/2013 04:38 PM
Subject: Clean Harbors El Dorado

Thank you, Jon. I appreciate your updating me. Your efforts are most appreciated. I had a few additional thoughts.

Although urgency does not appear to be a criterion under 40 CFR 300.440, timing should be relevant generally and particularly in situations in which the agency seeks to invoke the "extraordinary situation" exemption from the 60 day notice requirement--for emergencies or for egregious violations. As you know, in our case, inspections of the facility and follow-up reports were undertaken on the following dates:

Inspection - May and June 2009	Report January 2010
Inspection - May 2011	Report June 2011
Inspection - Nov. 2011	Report January 2012

And, under (f), an unacceptability determination, even if issued, can be lifted if the facility demonstrates its return to physical compliance. In our case, I'm not aware that any alleged violations are ongoing that would require a return to compliance.

I am particularly concerned because we've been working in good faith with the agency to address its concerns in a prescribed and orderly process, and this issue comes out of nowhere, outside the lines of our ongoing discussions and apparently without regard to them. Though we dispute whether there've been violations, I had assumed there was no disagreement that whatever violations were alleged were not ongoing. As you know, pending resolution of the brine issue, we shut down brine product manufacturing and sale. The other alleged violations appeared to me to be of specific past incidents, not of ongoing activities. It's possible the facts are different than what we understand them to be, but, if they are, it would be good to know so we're starting from the same point in our discussions.

Thanks again for your efforts!

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull.Jonathan@epamail.epa.gov [<mailto:Bull.Jonathan@epamail.epa.gov>]

Sent: Thursday, January 24, 2013 4:22 PM

To: Civins, Jeff
Subject: Re: Clean Harbors El Dorado

Thank you Jeff. I will get back to you as soon as I can on this matter.

Jon

Jonathan Bull
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
MC 6RC-ER
Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA
Cc: "McKinney, Carrie G." <Carrie.McKinney@haynesboone.com>
Date: 01/24/2013 10:41 AM
Subject: Clean Harbors El Dorado

Jon,

Thanks for getting back to me so quickly. As I mentioned, this matter is one of the utmost concern to Clean Harbors. As promised, below is an email chain that was forwarded to me by Phil Retallick that provides some background.

As I mentioned, I briefly spoke with Wilkin Shannon, who is in the email chain, to obtain the facts. He indicated his management his considering issuing an immediate unacceptability determination for egregious violations. He was aware that brine manufacturing had been shut down, but said there were other violations. As we discussed, I am at a loss to understand the legal basis for any such action, particularly in light of the facts that we are still in the process of developing factual information to determine if in fact any violations have occurred and that, even if any violations occurred, they are not ongoing.

The pertinent statutory provision is section 121(d)(3) of CERCLA that states that hazardous substances from CERCLA remediations only be transferred to a facility which is operating in compliance with sections 3004 and 3005 of RCRA. As I mentioned, the pertinent rule is 40 CFR 300.440, which contains detailed provisions regarding how this proscription is to be implemented, including provisions for procedural due process. The pertinent provision is 40 CFR 300.440(d), entitled "Determination of Unacceptability." Under this rule, a Region may determine that a facility being considered for the offsite transfer of CERCLA waste does not meet the acceptability criteria of section 300.440(b), which, among other things, explains that a facility will be deemed in compliance "if there are no relevant violations at or affecting the unit ...receiving CERCLA waste..." The rule then goes on to explain what violations are relevant, including those relating to releases of hazardous constituents. Like the statutory provision it implements, this language speaks in the present tense; it also applies not to all violations, but only to those that are "relevant." Section 300.440(d) generally requires that, before the proscription goes into effect, the agency have given 60 calendar days' notice and the opportunity to confer and respond before your authority to accept CERCLA wastes may be revoked. Section 300.440(e) addresses situations where the matter is being contested; it provides:

"Unacceptability during administrative and judicial challenges of corrective action decisions. For a facility with releases that are subject to a corrective action permit, order, or decree, an administrative or judicial challenge to the corrective action (or a challenge to a permit modification calling for additional corrective action) shall not be considered to be part of a corrective action "program"

controlling those releases and shall not act to stay a determination of unacceptability under this rule. However, such facility may remain acceptable to receive CERCLA waste during the pendency of the appeal or litigation if: (1) It satisfies the EPA Regional Office that adequate interim corrective action measures will continue at the facility; or (2) It demonstrates to the EPA Regional Office the absence of a need to take corrective action during the short-term, interim period. Either demonstration may be made during the 60-day review period in the context of the informal conference and RA reconsideration."

As to immediate implementation of the proscription, the pertinent provision is 40 CFR 300.440(d)(9), which provides:

"The EPA Regional Office may decide that a facility's unacceptability is immediately effective (or effective in less than 60 days) in extraordinary situations such as, but not limited to, emergencies at the facility or egregious violations. The EPA Region shall notify the facility owner/operator of the date of unacceptability, and may modify timeframes for comments and other procedures accordingly."

In our case, as noted, the alleged violations are being contested and no notice of violation has yet been issued. Moreover, the violations, even were they to have occurred, certainly do not appear to be egregious and in any event are not ongoing. It is questionable too whether they are the types of violations that would justify implementation of the proscription.

We very much appreciate your investigating this matter for us. As I mentioned, this matter is of the utmost concern to the company and we request the opportunity to discuss it with the highest level of management at the region in the event we are unable to resolve it.

I look forward to hearing from you. Thanks again.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Wilkin Shannon/R6/USEPA/US

To: Region2 OSR@EPA

Cc: Beckett Grealish/R2/USEPA/US@EPA, John Osolin/R2/USEPA/US@EPA

Date: 01/23/2013 02:38 PM

Subject: Re: Fw: OSR Request Form

Hello Beckett. right now Clean Harbors El Dorado, AR has permit and compliance issues that we are using to give them an unacceptability determination.

Wilkin Ronald Shannon

Hazardous Waste Enforcement Branch

Compliance Assurance & Enforcement Division U.S. EPA Region 6

(214) 665-2282 - voice

(214) 665-7264 - fax

shannon.wilkin@epa.gov<mailto:shannon.wilkin@epa.gov><mailto:shannon.wilkin@epa.gov><mailto:shannon.wilkin@epa.gov>>

From: Region2 OSR
To: Wilkin Shannon/R6/USEPA/US@EPA
Date: 01/16/2013 03:39 PM
Subject: Fw: OSR Request Form
Sent by: Beckett Grealish

Hi Ron.

The OSR request (below) is still pending. Can you reference the OSR request attached below and provide/verify the acceptability status of this facility ASAP?

Thanks!

USEPA Region 2 CERCLA Off-Site Rule requests

Email: Region2_OS@epa.gov<mailto:Region2_OS@epa.gov<mailto:Region2_OS@epa.gov<mailto:Region2_OS@epa.gov>>

Primary Regional Off-Site Rule Coordinator:

Beckett Grealish, Environmental Scientist United States Environmental Protection Agency - Region 2 ERRD/RAB/RST
2890 Woodbridge Avenue
Building 205
Edison, NJ 08837
Phone: (732) 321-4341
Fax: (732) 906-6182

Secondary Regional Off-Site Rule Coordinator:

Colin "Mark" Oldland
732-452-6443

----- Forwarded by Beckett Grealish/R2/USEPA/US on 01/16/2013 04:37 PM -----

From: Region2 OSR
To: Wilkin Shannon/R6/USEPA/US@EPA
Date: 01/07/2013 10:29 AM
Subject: Fw: OSR Request Form
Sent by: Beckett Grealish

Hi Ron.

Can you reference the OSR request attached below and provide/verify the acceptability status of this facility?

Thanks!

USEPA Region 2 CERCLA Off-Site Rule requests

Email: Region2_OS@epa.gov<mailto:Region2_OS@epa.gov<mailto:Region2_OS@epa.gov<mailto:Region2_OS@epa.gov>>

Primary Regional Off-Site Rule Coordinator:

Beckett Grealish, Environmental Scientist United States Environmental Protection Agency - Region 2 ERRD/RAB/RST
2890 Woodbridge Avenue

Building 205
Edison, NJ 08837
Phone: (732) 321-4341
Fax: (732) 906-6182

Secondary Regional Off-Site Rule Coordinator:

Colin "Mark" Oldland
732-452-6443

----- Forwarded by Beckett Grealish/R2/USEPA/US on 01/07/2013 10:28 AM -----

From: John Osolin/R2/USEPA/US
To: Region2_OSR@epamail.epa.gov<mailto:Region2_OSR@epamail.epa.gov<mailto:Region2_OSR@epamail.epa.gov<mailto:Region2_OSR@epamail.epa.gov>>>
Cc: Rich Puvogel/R2/USEPA/US@EPA, "Dean Hall"
<dhall@demaximis.com<<mailto:dhall@demaximis.com><<mailto:dhall@demaximis.com><<mailto:dhall@demaximis.com>>>>>
Date: 01/07/2013 08:36 AM
Subject: Fw: OSR Request Form

Attached please find the OSR Request form for the Clean Harbors incinerator in Arkansas. We hope to send material from the Evor Phillips Site in Old Bridge, NJ. Any questions feel free to contact me.

John Osolin, Remedial Project Manager
Emergency & Remedial Response Division
Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

(212) 637 4412

----- Forwarded by John Osolin/R2/USEPA/US on 01/07/2013 08:33 AM -----

From: "Dean Hall"
<dhall@demaximis.com<<mailto:dhall@demaximis.com><<mailto:dhall@demaximis.com><<mailto:dhall@demaximis.com>>>>>
To: John Osolin/R2/USEPA/US@EPA
Date: 01/04/2013 03:54 PM
Subject: OSR Request Form

Hi John,

Attached please find the OSR Request form for the Clean Harbors incinerator in Arkansas. Any questions feel free to contact me.

Dean

[attachment "OSR Request Form_EPLC_CleanHarborsEIDorado_drums.pdf" deleted by John Osolin/R2/USEPA/US]

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any

U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Friday, January 25, 2013 2:13 PM
To: Bull, Jonathan; Barra, Michael
Cc: 'RETALLICK, PHILLIP G'; McKinney, Carrie G.
Subject: Clean Harbors El Dorado

Hi, Jon and Mike,

Thank you for getting back to me this afternoon and for your efforts to help resolve this matter.

In our conversation, you clarified that the Region had not yet made any unacceptability determination and that the Region's concern related not to the alleged violations regarding brine manufacture and sale or past storage of particular wastes, but rather to use and maintenance of carbon canisters. I indicated I would be surprised if that issue had not already been addressed and that, if it hadn't, felt confident it could be immediately. As promised, after our call, I spoke with Phil Retallick, Clean Harbors' Senior Vice President for Regulatory Affairs, whom I'm copying on this email, to follow up on the status of this issue.

Phil was traveling today, but contacted the El Dorado facility and confirmed that procedures had been implemented and were in place to assure compliance with 40 CFR Part 264 Subpart CC as it relates to carbon canister operations. Phil committed to provide a more detailed report regarding these procedures next week when he's back in the office.

We would hope to have this information to you no later than Tuesday, if that's soon enough. If you need it sooner, please let me know. In the meantime, I've told the company, based on our conversation, that the Region would take no action regarding any unacceptability determination without us first having spoken.

On behalf of CHEL, thanks again for looking into this matter and helping us work to resolve it.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Civins, Jeff
Sent: Thursday, January 24, 2013 5:36 PM
To: 'Bull.Jonathan@epamail.epa.gov'
Cc: Barra.Michael@epamail.epa.gov
Subject: RE: Clean Harbors El Dorado

Thanks, Jon. I look forward to speaking with you then.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

vCard | Bio | Website

From: Bull.Jonathan@epamail.epa.gov [<mailto:Bull.Jonathan@epamail.epa.gov>]

Sent: Thursday, January 24, 2013 5:21 PM

To: Civins, Jeff

Cc: Barra.Michael@epamail.epa.gov

Subject: Re: Clean Harbors El Dorado

Jeff

I understand your points and concerns, and I will plan to speak with you about them when I can get back to you.

Jonathan Bull
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
MC 6RC-ER
Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA
Cc: "McKinney, Carrie G." <Carie.McKinney@haynesboone.com>
Date: 01/24/2013 04:38 PM
Subject: Clean Harbors El Dorado

Thank you, Jon. I appreciate your updating me. Your efforts are most appreciated. I had a few additional thoughts.

Although urgency does not appear to be a criterion under 40 CFR 300.440, timing should be relevant generally and particularly in situations in which the agency seeks to invoke the "extraordinary situation" exemption from the 60 day notice requirement--for emergencies or for egregious violations. As you know, in our case, inspections of the facility and follow-up reports were undertaken on the following dates:

Inspection - May and June 2009 Report January 2010

Inspection - May 2011 Report June 2011

Inspection - Nov. 2011 Report January 2012

And, under (f), an unacceptability determination, even if issued, can be lifted if the facility demonstrates its return to physical compliance. In our case, I'm not aware that any alleged violations are ongoing that would require a return to compliance.

I am particularly concerned because we've been working in good faith with the agency to address its concerns in a prescribed and orderly process, and this issue comes out of nowhere, outside the lines of our ongoing discussions and apparently without regard to them. Though we dispute whether there've been violations, I had assumed there was no disagreement that whatever violations were alleged were not ongoing. As you know, pending resolution of the brine issue, we shut down brine product manufacturing and

sale. The other alleged violations appeared to me to be of specific past incidents, not of ongoing activities. It's possible the facts are different than what we understand them to be, but, if they are, it would be good to know so we're starting from the same point in our discussions.

Thanks again for your efforts!

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Bull,Jonathan@epamail.epa.gov [<mailto:Bull,Jonathan@epamail.epa.gov>]

Sent: Thursday, January 24, 2013 4:22 PM

To: Civins, Jeff

Subject: Re: Clean Harbors El Dorado

Thank you Jeff. I will get back to you as soon as I can on this matter.

Jon

Jonathan Bull

Office of Regional Counsel

U.S. Environmental Protection Agency, Region 6

1445 Ross Avenue, Suite 1200

MC 6RC-ER

Dallas, Texas 75202-2733

Tel. (214) 665-8597

bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>

To: Jonathan Bull/R6/USEPA/US@EPA

Cc: "McKinney, Carrie G." <Carrie.McKinney@haynesboone.com>

Date: 01/24/2013 10:41 AM

Subject: Clean Harbors El Dorado

Jon,

Thanks for getting back to me so quickly. As I mentioned, this matter is one of the utmost concern to Clean Harbors. As promised, below is an email chain that was forwarded to me by Phil Retallick that provides some background.

As I mentioned, I briefly spoke with Wilkin Shannon, who is in the email chain, to obtain the facts. He indicated his management his considering issuing an immediate unacceptability determination for egregious violations. He was aware that brine manufacturing had been shut down, but said there were other violations. As we discussed, I am at a loss to understand the legal basis for any such action, particularly in light of the facts that we are still in the process of developing factual information to determine if in fact any

violations have occurred and that, even if any violations occurred, they are not ongoing.

The pertinent statutory provision is section 121(d)(3) of CERCLA that states that hazardous substances from CERCLA remediations only be transferred to a facility which is operating in compliance with sections 3004 and 3005 of RCRA. As I mentioned, the pertinent rule is 40 CFR 300.440, which contains detailed provisions regarding how this proscription is to be implemented, including provisions for procedural due process. The pertinent provision is 40 CFR 300.440(d), entitled "Determination of Unacceptability." Under this rule, a Region may determine that a facility being considered for the offsite transfer of CERCLA waste does not meet the acceptability criteria of section 300.440(b), which, among other things, explains that a facility will be deemed in compliance "if there are no relevant violations at or affecting the unit ...receiving CERCLA waste..." The rule then goes on to explain what violations are relevant, including those relating to releases of hazardous constituents. Like the statutory provision it implements, this language speaks in the present tense; it also applies not to all violations, but only to those that are "relevant." Section 300.440(d) generally requires that, before the proscription goes into effect, the agency have given 60 calendar days' notice and the opportunity to confer and respond before your authority to accept CERCLA wastes may be revoked. Section 300.440(e) addresses situations where the matter is being contested; it provides:

"Unacceptability during administrative and judicial challenges of corrective action decisions. For a facility with releases that are subject to a corrective action permit, order, or decree, an administrative or judicial challenge to the corrective action (or a challenge to a permit modification calling for additional corrective action) shall not be considered to be part of a corrective action "program" controlling those releases and shall not act to stay a determination of unacceptability under this rule. However, such facility may remain acceptable to receive CERCLA waste during the pendency of the appeal or litigation if: (1) It satisfies the EPA Regional Office that adequate interim corrective action measures will continue at the facility; or (2) It demonstrates to the EPA Regional Office the absence of a need to take corrective action during the short-term, interim period. Either demonstration may be made during the 60-day review period in the context of the informal conference and RA reconsideration."

As to immediate implementation of the proscription, the pertinent provision is 40 CFR 300.440(d)(9), which provides:

"The EPA Regional Office may decide that a facility's unacceptability is immediately effective (or effective in less than 60 days) in extraordinary situations such as, but not limited to, emergencies at the facility or egregious violations. The EPA Region shall notify the facility owner/operator of the date of unacceptability, and may modify timeframes for comments and other procedures accordingly."

In our case, as noted, the alleged violations are being contested and no notice of violation has yet been issued. Moreover, the violations, even were they to have occurred, certainly do not appear to be egregious and in any event are not ongoing. It is questionable too whether they are the types of violations that would justify implementation of the proscription.

We very much appreciate your investigating this matter for us. As I mentioned, this matter is of the utmost concern to the company and we request the opportunity to discuss it with the highest level of management at the region in the event we are unable to resolve it.

I look forward to hearing from you. Thanks again.

haynesboone

Jeff Civins

Partner

jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue

Suite 1300

Austin, TX 78701-3285

(t) 512.867.8477

(f) 512.867.8691

(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Wilkin Shannon/R6/USEPA/US
To: Region2 OSR@EPA
Cc: Beckett Grealish/R2/USEPA/US@EPA, John Osolin/R2/USEPA/US@EPA
Date: 01/23/2013 02:38 PM
Subject: Re: Fw: OSR Request Form

Hello Beckett. right now Clean Harbors El Dorado, AR has permit and compliance issues that we are using to give them an unacceptability determination.

Wilkin Ronald Shannon
Hazardous Waste Enforcement Branch
Compliance Assurance & Enforcement Division U.S. EPA Region 6
(214) 665-2282 - voice
(214) 665-7264 - fax
shannon.wilkin@epa.gov<<mailto:shannon.wilkin@epa.gov><<mailto:shannon.wilkin@epa.gov><<mailto:shannon.wilkin@epa.gov>>>

From: Region2 OSR
To: Wilkin Shannon/R6/USEPA/US@EPA
Date: 01/16/2013 03:39 PM
Subject: Fw: OSR Request Form
Sent by: Beckett Grealish

Hi Ron.

The OSR request (below) is still pending. Can you reference the OSR request attached below and provide/verify the acceptability status of this facility ASAP?

Thanks!

USEPA Region 2 CERCLA Off-Site Rule requests
Email: Region2_OSR@epa.gov<mailto:Region2_OSR@epa.gov<mailto:Region2_OSR@epa.gov<mailto:Region2_OSR@epa.gov>>

Primary Regional Off-Site Rule Coordinator:

Beckett Grealish, Environmental Scientist United States Environmental Protection Agency - Region 2 ERRD/RAB/RST
2890 Woodbridge Avenue
Building 205
Edison, NJ 08837
Phone: (732) 321-4341
Fax: (732) 906-6182

Secondary Regional Off-Site Rule Coordinator:

Colin "Mark" Oldland
732-452-6443

----- Forwarded by Beckett Grealish/R2/USEPA/US on 01/16/2013 04:37 PM -----

From: Region2 OSR
To: Wilkin Shannon/R6/USEPA/US@EPA
Date: 01/07/2013 10:29 AM
Subject: Fw: OSR Request Form
Sent by: Beckett Grealish

Hi Ron.

Can you reference the OSR request attached below and provide/verify the acceptability status of this facility?

Thanks!

USEPA Region 2 CERCLA Off-Site Rule requests

Email: Region2_OSR@epa.gov<mailto:Region2_OSR@epa.gov<mailto:Region2_OSR@epa.gov<mailto:Region2_OSR@epa.gov>>

Primary Regional Off-Site Rule Coordinator:

Beckett Grealish, Environmental Scientist United States Environmental Protection Agency - Region 2 ER RD/RAB/RST
2890 Woodbridge Avenue
Building 205
Edison, NJ 08837
Phone: (732) 321-4341
Fax: (732) 906-6182

Secondary Regional Off-Site Rule Coordinator:

Colin "Mark" Oldland
732-452-6443

----- Forwarded by Beckett Grealish/R2/USEPA/US on 01/07/2013 10:28 AM -----

From: John Osolin/R2/USEPA/US
To: Region2_OSR@epamail.epa.gov<mailto:Region2_OSR@epamail.epa.gov<mailto:Region2_OSR@epamail.epa.gov<mailto:Region2_OSR@epamail.epa.gov>>
Cc: Rich Puvogel/R2/USEPA/US@EPA, "Dean Hall"
<dhall@demaximis.com<<mailto:dhall@demaximis.com><<mailto:dhall@demaximis.com><<mailto:dhall@demaximis.com>>>>
Date: 01/07/2013 08:36 AM
Subject: Fw: OSR Request Form

Attached please find the OSR Request form for the Clean Harbors incinerator in Arkansas. We hope to send material from the Evor Phillips Site in Old Bridge, NJ. Any questions feel free to contact me.

John Osolin, Remedial Project Manager
Emergency & Remedial Response Division
Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

(212) 637 4412

From: "Dean Hall"

<dhall@demaximis.com<mailto:dhall@demaximis.com<mailto:dhall@demaximis.com<mailto:dhall@demaximis.com>>>

To: John Osolin/R2/USEPA/US@EPA

Date: 01/04/2013 03:54 PM

Subject: OSR Request Form

Hi John,

Attached please find the OSR Request form for the Clean Harbors incinerator in Arkansas. Any questions feel free to contact me.

Dean

[attachment "OSR Request Form_EPLC_CleanHarborsEIDorado_drums.pdf" deleted by John Osolin/R2/USEPA/US]

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

Pearson, Evan

From: Civins, Jeff [Jeff.Civins@haynesboone.com]
Sent: Thursday, January 24, 2013 4:39 PM
To: Bull, Jonathan
Cc: McKinney, Carie G.
Subject: Clean Harbors El Dorado

Thank you, Jon. I appreciate your updating me. Your efforts are most appreciated. I had a few additional thoughts.

Although urgency does not appear to be a criterion under 40 CFR 300.440, timing should be relevant generally and particularly in situations in which the agency seeks to invoke the "extraordinary situation" exemption from the 60 day notice requirement--for emergencies or for egregious violations. As you know, in our case, inspections of the facility and follow-up reports were undertaken on the following dates:

Inspection - May and June 2009 Report January 2010

Inspection - May 2011 Report June 2011

Inspection - Nov. 2011 Report January 2012

And, under (f), an unacceptability determination, even if issued, can be lifted if the facility demonstrates its return to physical compliance. In our case, I'm not aware that any alleged violations are ongoing that would require a return to compliance.

I am particularly concerned because we've been working in good faith with the agency to address its concerns in a prescribed and orderly process, and this issue comes out of nowhere, outside the lines of our ongoing discussions and apparently without regard to them. Though we dispute whether there've been violations, I had assumed there was no disagreement that whatever violations were alleged were not ongoing. As you know, pending resolution of the brine issue, we shut down brine product manufacturing and sale. The other alleged violations appeared to me to be of specific past incidents, not of ongoing activities. It's possible the facts are different than what we understand them to be, but, if they are, it would be good to know so we're starting from the same point in our discussions.

Thanks again for your efforts!

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP

600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

vCard | Bio | Website

From: Bull.Jonathan@epamail.epa.gov [mailto:Bull.Jonathan@epamail.epa.gov]

Sent: Thursday, January 24, 2013 4:22 PM

To: Civins, Jeff

Subject: Re: Clean Harbors El Dorado

Thank you Jeff. I will get back to you as soon as I can on this matter.

Jon

Jonathan Bull
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
MC 6RC-ER
Dallas, Texas 75202-2733
Tel. (214) 665-8597
bull.jonathan@epa.gov

From: "Civins, Jeff" <Jeff.Civins@haynesboone.com>
To: Jonathan Bull/R6/USEPA/US@EPA
Cc: "McKinney, Carrie G." <Carrie.McKinney@haynesboone.com>
Date: 01/24/2013 10:41 AM
Subject: Clean Harbors El Dorado

Jon,

Thanks for getting back to me so quickly. As I mentioned, this matter is one of the utmost concern to Clean Harbors. As promised, below is an email chain that was forwarded to me by Phil Retallick that provides some background.

As I mentioned, I briefly spoke with Wilkin Shannon, who is in the email chain, to obtain the facts. He indicated his management is considering issuing an immediate unacceptability determination for egregious violations. He was aware that brine manufacturing had been shut down, but said there were other violations. As we discussed, I am at a loss to understand the legal basis for any such action, particularly in light of the facts that we are still in the process of developing factual information to determine if in fact any violations have occurred and that, even if any violations occurred, they are not ongoing.

The pertinent statutory provision is section 121(d)(3) of CERCLA that states that hazardous substances from CERCLA remediations only be transferred to a facility which is operating in compliance with sections 3004 and 3005 of RCRA. As I mentioned, the pertinent rule is 40 CFR 300.440, which contains detailed provisions regarding how this proscription is to be implemented, including provisions for procedural due process. The pertinent provision is 40 CFR 300.440(d), entitled "Determination of Unacceptability." Under this rule, a Region may determine that a facility being considered for the offsite transfer of CERCLA waste does not meet the acceptability criteria of section 300.440(b), which, among other things, explains that a facility will be deemed in compliance "if there are no relevant violations at or affecting the unit ...receiving CERCLA waste..." The rule then goes on to explain what violations are relevant, including those relating to releases of hazardous constituents. Like the statutory provision it implements, this language speaks in the present tense; it also applies not to all violations, but only to those that are "relevant." Section 300.440(d) generally requires that, before the proscription goes into effect, the agency have given 60 calendar days' notice and the opportunity to confer and respond before your authority to accept CERCLA wastes may be revoked. Section 300.440(e) addresses situations where the matter is being contested; it provides:

"Unacceptability during administrative and judicial challenges of corrective action decisions. For a facility with releases that are subject to a corrective action permit, order, or decree, an administrative or judicial challenge to the corrective action (or a challenge to

a permit modification calling for additional corrective action) shall not be considered to be part of a corrective action "program" controlling those releases and shall not act to stay a determination of unacceptability under this rule. However, such facility may remain acceptable to receive CERCLA waste during the pendency of the appeal or litigation if: (1) It satisfies the EPA Regional Office that adequate interim corrective action measures will continue at the facility; or (2) It demonstrates to the EPA Regional Office the absence of a need to take corrective action during the short-term, interim period. Either demonstration may be made during the 60-day review period in the context of the informal conference and RA reconsideration."

As to immediate implementation of the proscription, the pertinent provision is 40 CFR 300.440(d)(9), which provides:

"The EPA Regional Office may decide that a facility's unacceptability is immediately effective (or effective in less than 60 days) in extraordinary situations such as, but not limited to, emergencies at the facility or egregious violations. The EPA Region shall notify the facility owner/operator of the date of unacceptability, and may modify timeframes for comments and other procedures accordingly."

In our case, as noted, the alleged violations are being contested and no notice of violation has yet been issued. Moreover, the violations, even were they to have occurred, certainly do not appear to be egregious and in any event are not ongoing. It is questionable too whether they are the types of violations that would justify implementation of the proscription.

We very much appreciate your investigating this matter for us. As I mentioned, this matter is of the utmost concern to the company and we request the opportunity to discuss it with the highest level of management at the region in the event we are unable to resolve it.

I look forward to hearing from you. Thanks again.

haynesboone

Jeff Civins

Partner
jeff.civins@haynesboone.com

Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, TX 78701-3285

(t) 512.867.8477
(f) 512.867.8691
(m) 512.750.1284

[vCard](#) | [Bio](#) | [Website](#)

From: Wilkin Shannon/R6/USEPA/US
To: Region2 OSR@EPA
Cc: Beckett Grealish/R2/USEPA/US@EPA, John Osolin/R2/USEPA/US@EPA
Date: 01/23/2013 02:38 PM
Subject: Re: Fw: OSR Request Form

Hello Beckett. right now Clean Harbors El Dorado, AR has permit and compliance issues that we are using to give them an unacceptability determination.

Wilkin Ronald Shannon
Hazardous Waste Enforcement Branch
Compliance Assurance & Enforcement Division U.S. EPA Region 6
(214) 665-2282 - voice
(214) 665-7264 - fax
shannon.wilkin@epa.gov<<mailto:shannon.wilkin@epa.gov><<mailto:shannon.wilkin@epa.gov><<mailto:shannon.wilkin@epa.gov>>>

From: Region2 OSR
To: Wilkin Shannon/R6/USEPA/US@EPA
Date: 01/16/2013 03:39 PM
Subject: Fw: OSR Request Form
Sent by: Beckett Grealish

Hi Ron.

The OSR request (below) is still pending. Can you reference the OSR request attached below and provide/verify the acceptability status of this facility ASAP?

Thanks!

USEPA Region 2 CERCLA Off-Site Rule requests

Email: Region2_OS@epa.gov<mailto:Region2_OS@epa.gov><mailto:Region2_OS@epa.gov><mailto:Region2_OS@epa.gov>>

Primary Regional Off-Site Rule Coordinator:

Beckett Grealish, Environmental Scientist United States Environmental Protection Agency - Region 2 ER RD/RAB/RST
2890 Woodbridge Avenue
Building 205
Edison, NJ 08837
Phone: (732) 321-4341
Fax: (732) 906-6182

Secondary Regional Off-Site Rule Coordinator:

Colin "Mark" Oldland
732-452-6443

----- Forwarded by Beckett Grealish/R2/USEPA/US on 01/16/2013 04:37 PM -----

From: Region2 OSR
To: Wilkin Shannon/R6/USEPA/US@EPA
Date: 01/07/2013 10:29 AM
Subject: Fw: OSR Request Form
Sent by: Beckett Grealish

Hi Ron.

Can you reference the OSR request attached below and provide/verify the acceptability status of this facility?

Thanks!

USEPA Region 2 CERCLA Off-Site Rule requests

Email: Region2_OS@epa.gov<mailto:Region2_OS@epa.gov><mailto:Region2_OS@epa.gov><mailto:Region2_OS@epa.gov>>

Primary Regional Off-Site Rule Coordinator:

Beckett Grealish, Environmental Scientist United States Environmental Protection Agency - Region 2 ER RD/RAB/RST
2890 Woodbridge Avenue
Building 205
Edison, NJ 08837
Phone: (732) 321-4341
Fax: (732) 906-6182

Secondary Regional Off-Site Rule Coordinator:

Colin "Mark" Oldland

732-452-6443

----- Forwarded by Beckett Grealish/R2/USEPA/US on 01/07/2013 10:28 AM -----

From: John Osolin/R2/USEPA/US

To:

Region2_OS@epamail.epa.gov<mailto:Region2_OS@epamail.epa.gov><mailto:Region2_OS@epamail.epa.gov><mailto:Region2_OS@epamail.epa.gov>>

Cc: Rich Puvogel/R2/USEPA/US@EPA, "Dean Hall"

dhall@demaximis.com<mailto:dhall@demaximis.com><mailto:dhall@demaximis.com><mailto:dhall@demaximis.com>>

Date: 01/07/2013 08:36 AM

Subject: Fw: OSR Request Form

Attached please find the OSR Request form for the Clean Harbors incinerator in Arkansas. We hope to send material from the Evor Phillips Site in Old Bridge, NJ. Any questions feel free to contact me.

John Osolin, Remedial Project Manager
Emergency & Remedial Response Division
Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

(212) 637 4412

----- Forwarded by John Osolin/R2/USEPA/US on 01/07/2013 08:33 AM -----

From: "Dean Hall"

dhall@demaximis.com<mailto:dhall@demaximis.com><mailto:dhall@demaximis.com><mailto:dhall@demaximis.com>>

To: John Osolin/R2/USEPA/US@EPA

Date: 01/04/2013 03:54 PM

Subject: OSR Request Form

Hi John,

Attached please find the OSR Request form for the Clean Harbors incinerator in Arkansas. Any questions feel free to contact me.

Dean

[attachment "OSR Request Form_EPLC_CleanHarborsElDorado_drums.pdf" deleted by John Osolin/R2/USEPA/US]

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please

immediately notify the sender and delete it from your system.

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by U.S. Treasury Regulations, Haynes and Boone, LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.



{In Archive} Brine Analytical Information

Shoemaker, Kathleen to: Roxanne King

01/19/2012 02:51 PM

"KUHIN, JOHN SCOTT", "Hines, Ronald Keith", "RETALLICK,
Cc: PHILLIP G", "ROBLEE JR, DANIEL C", "Karp, Michael A", "Evans,
Teresa", "McDonald, Michael R"

From: "Shoemaker, Kathleen" <shoemaker.kathleen@cleanharbors.com>

To: Roxanne King/R6/USEPA/US@EPA

Cc: "KUHIN, JOHN SCOTT" <kuhn.john@cleanharbors.com>, "Hines, Ronald Keith"
<hines.ronald@cleanharbors.com>, "RETALLICK, PHILLIP G" <retallick.phillip@cleanharbors.com>,
"ROBLEE JR, DANIEL C" <roblee.daniel@cleanharbors.com>, "Karp, Michael A"

History: This message has been forwarded.

Archive: This message is being viewed in an archive.

3 attachments



Nov 2011 Analytical with GC scans.pdf Profile LG LM89 0617B.pdf



Filter cake manifest 036072-7691-4183-8655-7667098baafc[1].tif

Roxanne,

I apologize that with the holidays many employees were on vacation and I was delayed at getting you this information.

Per your request and in accordance to the operational plan presented to the ADEQ, I am attaching the analytical data that we routinely run on the El Dorado facilities Brine Product. The elevated TOC readings are confirmed interferences from dissolved carbon dioxide in the sample. Carbon dioxide is a desired byproduct of our process and it is expected to be found in the samples. Also the high concentration of salts in the samples can be causing interferences with the TOC analytical method. In order to confirm that the TOC readings were false, due to interferences, we had our brine samples screened by GC using the same method as our incineration ash verifying destruction of hazardous organic constituents. The GC scans showed no measurable organics with chlorobenzene, ethylbenzene, methyl isobutyl ketone, toluene, trichloroethylene, and xylene, all below the detection limits of the method.

This Brine Product is sold to the oil and gas industry, for use in production well drilling and well development activities, primarily in Arkansas and Louisiana. Since we are manufacturing a product used in commerce and its not discarded commercial product, the RCRA Generator Waste Identification Rules are not applicable to our product.

The filter cake which we send to Clean Harbors' Lone Mountain facility as RCRA Hazardous waste is profiled using generator knowledge so analytical is not required under our WAP guidelines. Further, Lone Mountain's permit does not require analytical from Clean Harbors' permitted TSDf's and uses our generator knowledge to profile the waste. In the case of our brine filter cake, the attached profile identifies all RCRA waste codes associated with the filter cake. Our Lone Mountain Facility uses that information to appropriately manage the filter cake under its Oklahoma Department of Environmental Quality Landfill Permit

Kathy Shoemaker, CHMM
Senior Compliance Manager
Clean Harbors El Dorado LLC
309 American Circle
El Dorado, AR 71730
Office: 870.864.3711
Mobile: 870.814.2401
Fax: 870.864.3730
Email: shoemaker.kathleen@cleanharbors.com
Web: www.cleanharbors.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact Clean Harbors Environmental Services at 781.792.5555 and delete the material from any computer.

November 2011

Batch Analytical
With
GC Scans and Verification

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-10-11

Lab #: 5716

Sample ID & Date: Brine Water 11-2-11

Analyst: D.W.

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.445		1.39-1.41 @ 70F	1.39 or higher	
pH	7.49		6.0-8.0	7.0-9.0	
Sulfide	ND	PPM	10 ppm max		
TOC	121.4	PPM	50 ppm max		✓
Carbonate	33	PPM	500 ppm max		
Turbidity	469	NTU	50 NTU max		✓
Alkali Chlorides	45%	%		5% max	
MgCl ₂	47.32	ppm	1.5% max	1.5% max	
Barium (Ba)	41.26	PPM	200 ppm max		
Iron (Fe)	1007	PPM	10 ppm max	15ppm max	
Lead (Pb)	0.045	PPM	10 ppm max		
Magnesium (Mg)	47.32	PPM			
Sodium (Na)	2493	PPM			
Potassium (K)	14410	PPM			
Total Mg, Na, K	1.69	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Quana Evans

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date:

12-10-11

Lab #:

5127

Sample ID & Date:

Brine water

11-2-11

Analyst:

GB

Method: EPA: SW-846; 8010, 8015B, 8021B
HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.369	96.3
Toluene	BMDL	ppm	0.353	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.136	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature:

OB Evans

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-10-11

Lab #: 5127

Sample ID & Date: Brine Water 11-2-11

Analyst: D.W.

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.41		1.39-1.41 @ 70F	1.39 or higher	
pH	5.5		6.0-8.0	7.0-9.0	✓
Sulfide	ND	PPM	10 ppm max		
TOC	154	PPM	50 ppm max		
Carbonate	73	PPM	500 ppm max		
Turbidity	206	NTU	50 NTU max		✓
Alkali Chlorides	45%	%		5% max	
MgCl ₂	54.58	ppm	1.5% max	1.5% max	
Barium (Ba)	43.25	PPM	200 ppm max		
Iron (Fe)	0.007	PPM	10 ppm max	15ppm max	
Lead (Pb)	13.49	PPM	10 ppm max		✓
Magnesium (Mg)	54.58	PPM			
Sodium (Na)	2531	PPM			
Potassium (K)	13850	PPM			
Total Mg, Na, K	1.64	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Meara Evans

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-10-11

Lab #: 5728

Sample ID & Date: Brine Sample 11-3-11

Analyst: D.W.

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.46		1.39-1.41 @ 70F	1.39 or higher	
pH	6.44		6.0-8.0	7.0-9.0	
Sulfide	ND	PPM	10 ppm max		
TOC	98.4	PPM	50 ppm max		✓
Carbonate	67.65	PPM	500 ppm max		
Turbidity	240	NTU	50 NTU max		✓
Alkali Chlorides	45%	%		5% max	
MgCl ₂	53.75	ppm	1.5% max	1.5% max	
Barium (Ba)	37.79	PPM	200 ppm max		
Iron (Fe)	0.007	PPM	10 ppm max	15ppm max	
Lead (Pb)	0.045	PPM	10 ppm max		
Magnesium (Mg)	53.7	PPM			
Sodium (Na)	2264	PPM			
Potassium (K)	14 000	PPM			
Total Mg, Na, K	1.63	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Heasa Evans

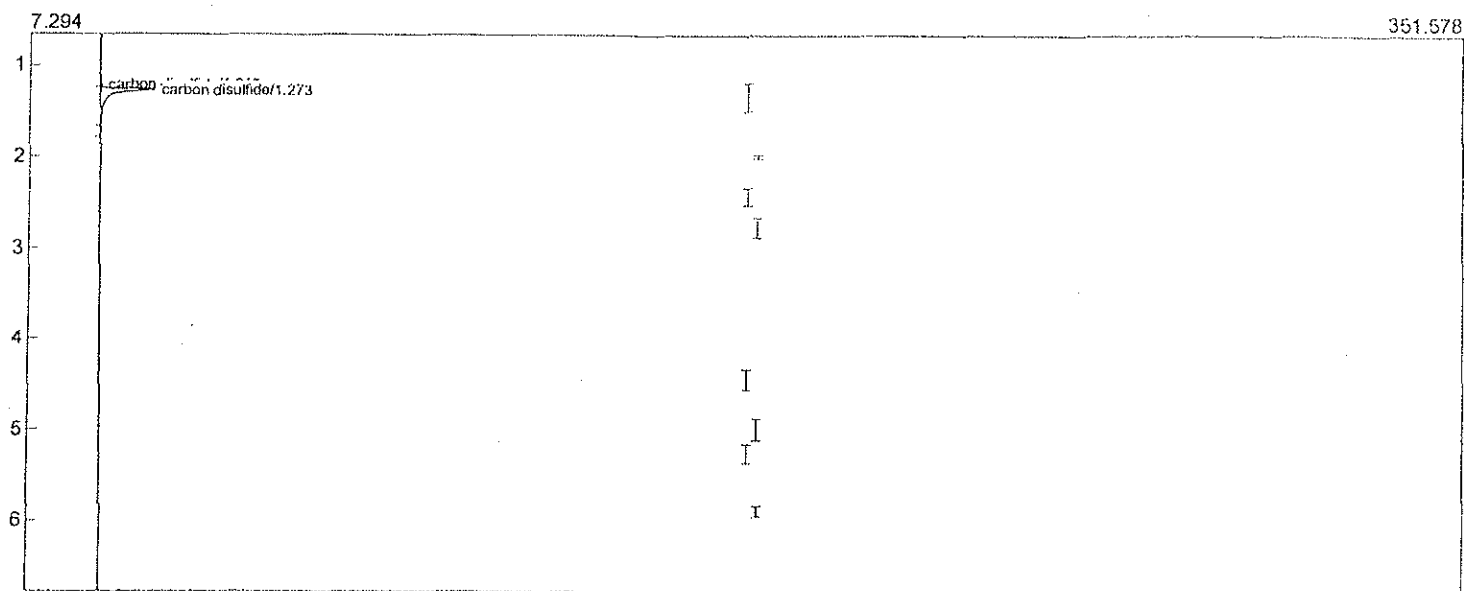
Lab name: Clean Harbors Lab
 Analysis date: 01/10/2012 12:50:27
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5127 BRINE GB03. (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-10-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.210	1.1100	0.362	0.0000	
carbon disulfide	1.273	47.5774	12.834	0.0000	
		48.6874		0.0000	

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date:

12-10-11

Lab #:

5728

Sample ID & Date:

Brine Sample 11-3-11

Analyst:

GB

Method: EPA SW-846; 8010, 8015B, 8021B

HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.369	96.3
Toluene	BMDL	ppm	0.369	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.139	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature:

W. Evans

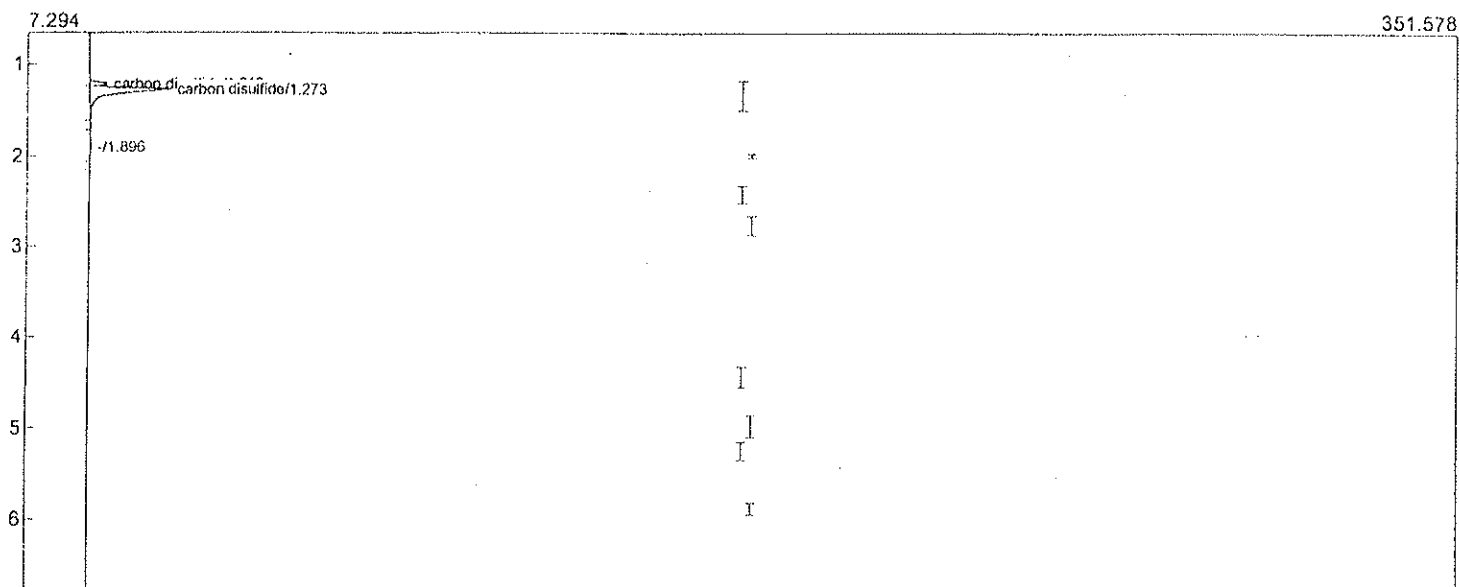
Lab name: Clean Harbors Lab
 Analysis date: 01/10/2012 12:28:23
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5128 BRINE GB02. (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-10-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.213	11.0865	4.253	0.0000	
carbon disulfide	1.273	76.1799	19.267	0.0000	
		87.2664		0.0000	

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-10-11

Lab #: 5198

Sample ID & Date: Brine H₂O Batch 2 11-6-11

Analyst: DW

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.455		1.39-1.41 @ 70F	1.39 or higher	
pH	7.34		6.0-8.0	7.0-9.0	
Sulfide	N.D.	PPM	10 ppm max		
TOC	140.8	PPM	50 ppm max		✓
Carbonate	N.D.	PPM	500 ppm max		
Turbidity	320	NTU	50 NTU max		✓
Alkali Chlorides	4.5%	%		5% max	
MgCl ₂	81.93	ppm	1.5% max	1.5% max	
Barium (Ba)	25.76	PPM	200 ppm max		
Iron (Fe)	.007	PPM	10 ppm max	15 ppm max	
Lead (Pb)	0.045	PPM	10 ppm max		
Magnesium (Mg)	81.9	PPM			
Sodium (Na)	2386	PPM			
Potassium (K)	13990	PPM			
Total Mg, Na, K	1.64	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Jeana Evans

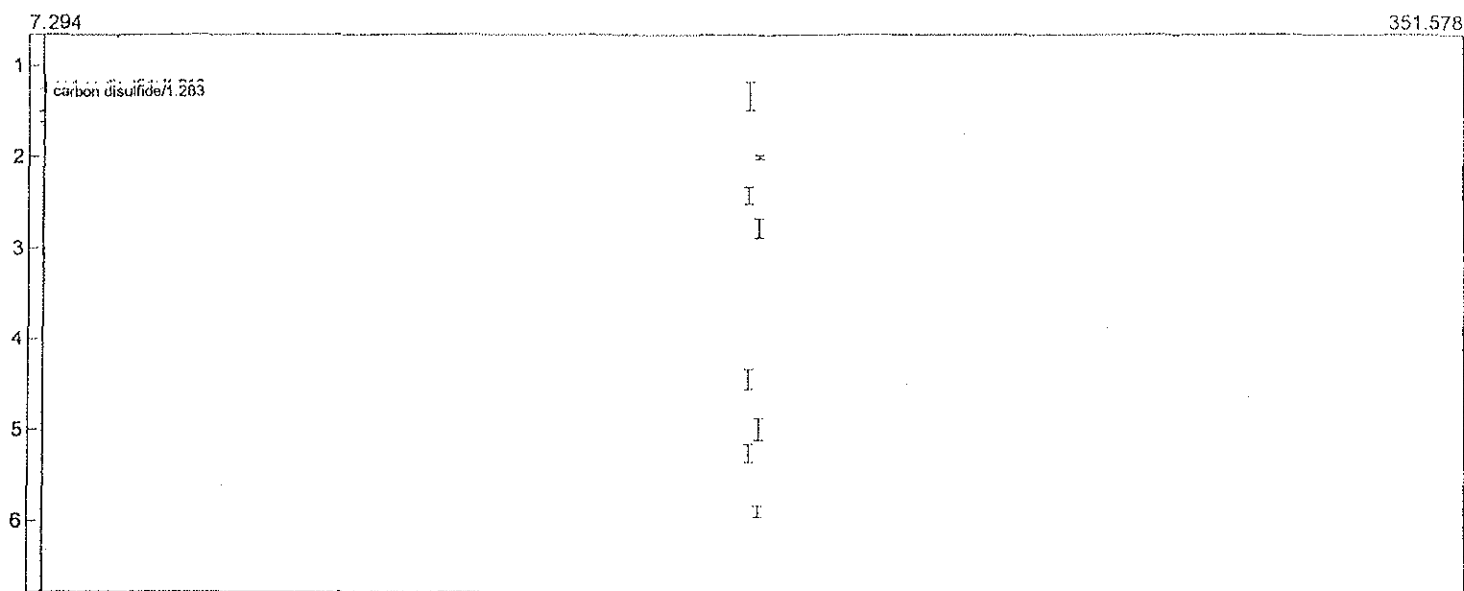
Lab name: Clean Harbors Lab
 Analysis date: 01/11/2012 12:49:44
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5197 BRINE.chr (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-11-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.216	2.5752	0.543	0.0000	
carbon disulfide	1.283	2.4179	0.532	0.0000	
		4.9931		0.0000	

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date: 12-10-11

Lab #:

Sample ID & Date: 5198 Brine 120 Batch 2 11-6-11

Analyst: GR

Method: EPA: SW-846, 8010, 8015B, 8021B
HP-5890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.389	96.3
Toluene	BMDL	ppm	0.368	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.159	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature: O'Hearts

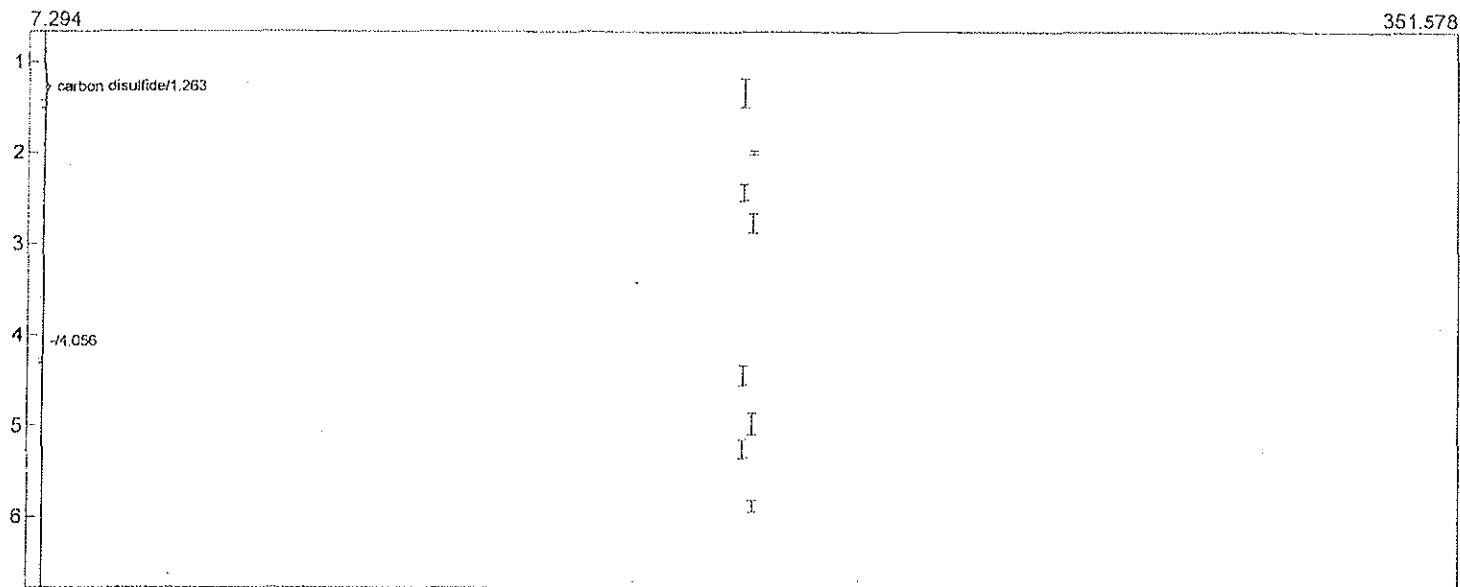
Lab name: Clean Harbors Lab
 Analysis date: 01/11/2012 13:11:38
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5198 BRINE GB12.CHR (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-11-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.263	4.6884	1.112	0.0000	
		4.6884		0.0000	

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date:

12-10-11

Lab #:

5214

Sample ID & Date:

Pomue H₂O Batch 2 11-7-11

Analyst:

GB

Method: EPA: SW-846; 8010, 8015B, 8021B

HP-6890 Gas Chromatograph

Standard	Results	UDM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.267	101.4
MIBK	BMDL	ppm	0.389	96.3
Toluene	BMDL	ppm	0.360	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.139	106.3
m,p-xylene	BMDL	ppm	0.275	99.9
o-xylene	BMDL	ppm	0.231	108.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature:

MEANS

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-10-11

Lab #: 5214

Sample ID & Date: Brine+H₂O Batch 2 11-7-11

Analyst: DW

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.47		1.39-1.41 @ 70F	1.39 or higher	
pH	6.79		6.0-8.0	7.0-9.0	
Sulfide	ND	PPM	10 ppm max		
TOC	144	PPM	50 ppm max		✓
Carbonate	ND	PPM	500 ppm max		
Turbidity	455	NTU	50 NTU max		✓
Alkali Chlorides	2.5%	%		5% max	
MgCl ₂	165.5	ppm	1.5% max	1.5% max	
Barium (Ba)	24.75	PPM	200 ppm max		
Iron (Fe)	1007	PPM	10 ppm max	15ppm max	
Lead (Pb)	0.045	PPM	10 ppm max		
Magnesium (Mg)	165.5	PPM			
Sodium (Na)	2193	PPM			
Potassium (K)	13210	PPM			
Total Mg, Na, K	1.55	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Heasa Evans

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date:

12-10-11

Lab #:

5797

Sample ID & Date:

Brine Water Batch 1 11-6-11

Analyst:

GB

Method: EPA: SW-846; 8010, 8015B, 8021B

HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.389	96.3
Toluene	BMDL	ppm	0.353	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.135	106.3
m,p-xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature:

W. Evans

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-10-11

Lab #: 5197

Sample ID & Date: Brine Under Batch 1 11-6-11

Analyst: D.W

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.45		1.39-1.41 @ 70F	1.39 or higher	
pH	7.31		6.0-8.0	7.0-9.0	
Sulfide	ND	PPM	10 ppm max		
TOC	112.2	PPM	50 ppm max		✓
Carbonate	<500	PPM	500 ppm max		
Turbidity	421	NTU	50 NTU max		✓
Alkali Chlorides	<5%	%		5% max	
MgCl ₂	86.46	ppm	1.5% max	1.5% max	
Barium (Ba)	25.9	PPM	200 ppm max		
Iron (Fe)	0.007	PPM	10 ppm max	15ppm max	
Lead (Pb)	0.045	PPM	10 ppm max		
Magnesium (Mg)	86.5	PPM			
Sodium (Na)	2251	PPM			
Potassium (K)	13,300	PPM			
Total Mg, Na, K	1.56	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Heena Evans

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date: 12-10-11

Lab #: 5215

Sample ID & Date: Brine H₂O B1 - 11-7-11

Analyst: GB

Method: EPA: SW-846; 8010, 8015B, 8021B
HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.369	96.3
Toluene	BMDL	ppm	0.358	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.156	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature: MEANS

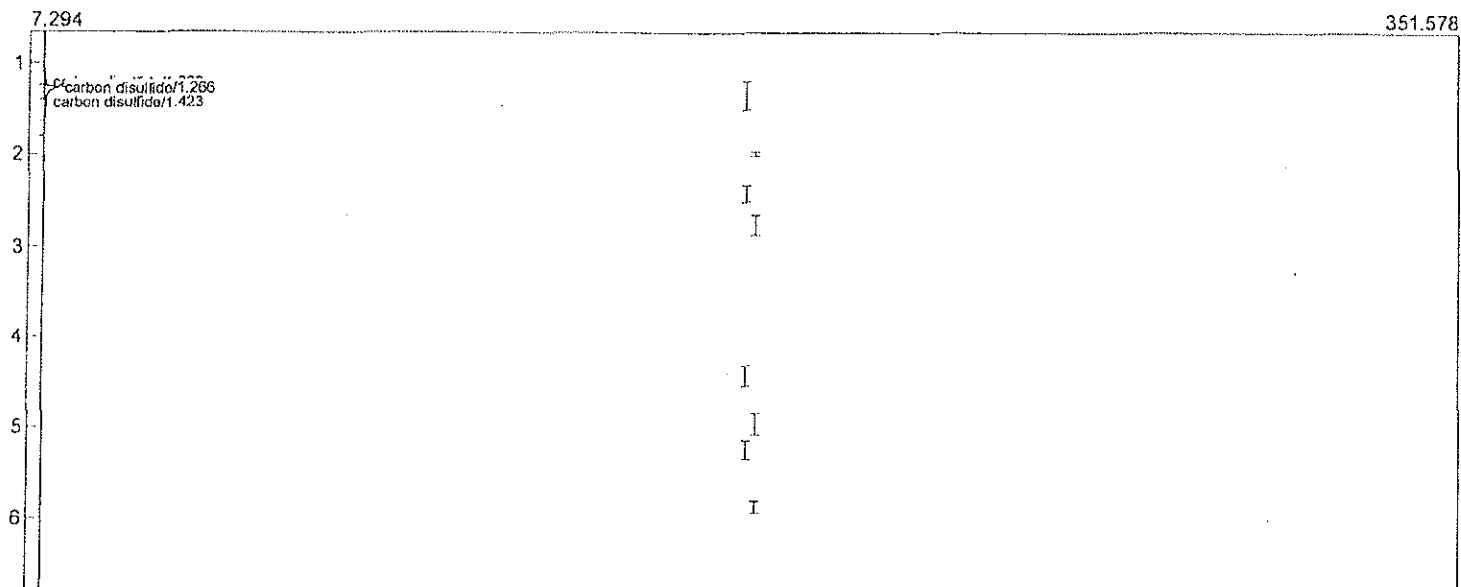
Lab name: Clean Harbors Lab
 Analysis date: 01/11/2012 08:48:25
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5215 BRINE GB04.CHR (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-11-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.206	1.3449	0.441	0.0000	
carbon disulfide	1.266	11.5589	3.239	0.0000	
carbon disulfide	1.423	3.8148	0.478	0.0000	
		16.7186		0.0000	

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date: 12-10-11

Lab #: 5215

Sample ID & Date: Brine H₂O B1, 11-7-11

Analyst: DW

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.45		1.39-1.41 @ 70F	1.39 or higher	
pH	6.65		6.0-8.0	7.0-9.0	
Sulfide	ND	PPM	10 ppm max		
TOC	108.3	PPM	50 ppm max		✓
Carbonate	4500	PPM	500 ppm max		
Turbidity	337	NTU	50 NTU max		✓
Alkali Chlorides	25	%		5% max	
MgCl ₂	181.5	ppm	1.5% max	1.5% max	
Barium (Ba)	28.44	PPM	200 ppm max		
Iron (Fe)	.007	PPM	10 ppm max	15ppm max	
Lead (Pb)	0.045	PPM	10 ppm max		
Magnesium (Mg)	181.5	PPM			
Sodium (Na)	2353	PPM			
Potassium (K)	14290	PPM			
Total Mg, Na, K	1.68	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: Juan Evans

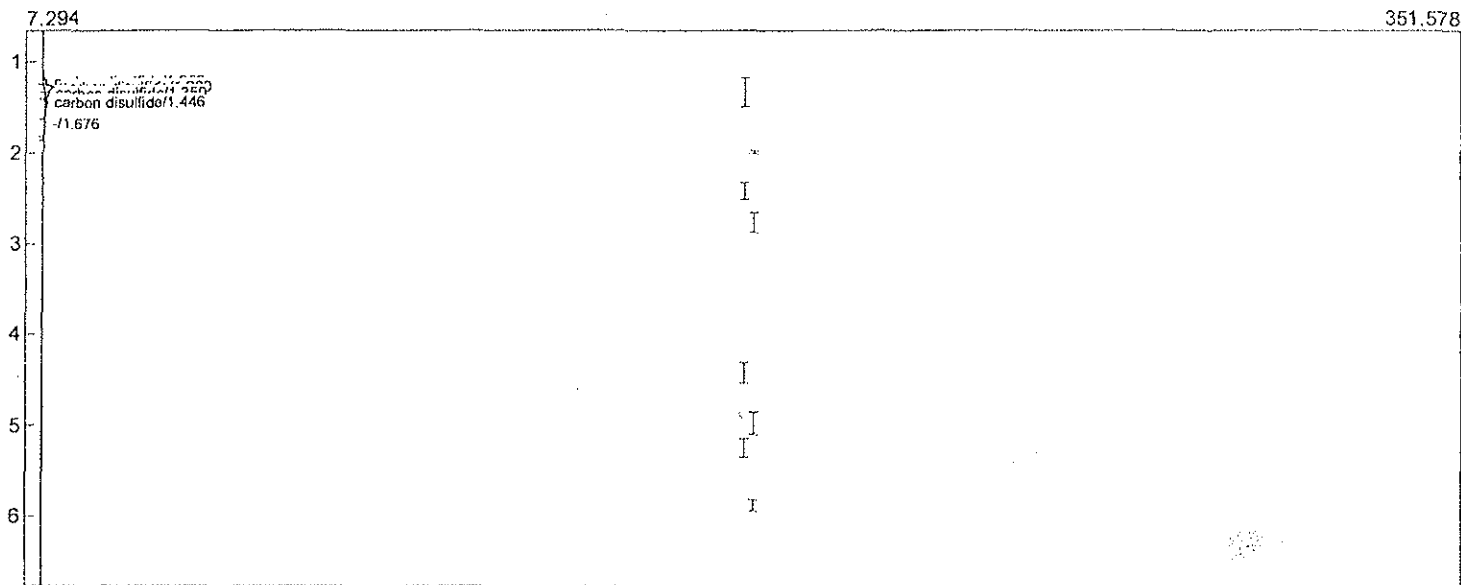
Lab name: Clean Harbors Lab
 Analysis date: 01/11/2012 08:12:13
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5214 BRINE GB03.CHR (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-11-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.220	2.7588	0.770	0.0000	
carbon disulfide	1.280	7.5436	2.290	0.0000	
carbon disulfide	1.350	2.7770	0.844	0.0000	
carbon disulfide	1.446	3.5950	0.562	0.0000	
		16.6744		0.0000	

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date: 12-10-11

Lab #: 5116

Sample ID & Date: Brine Water 11-2-11

Analyst: GPB

Method: EPA: SW-846; 8010, 8015B, 8021B
HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.369	96.3
Toluene	BMDL	ppm	0.358	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.156	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature: [Signature]

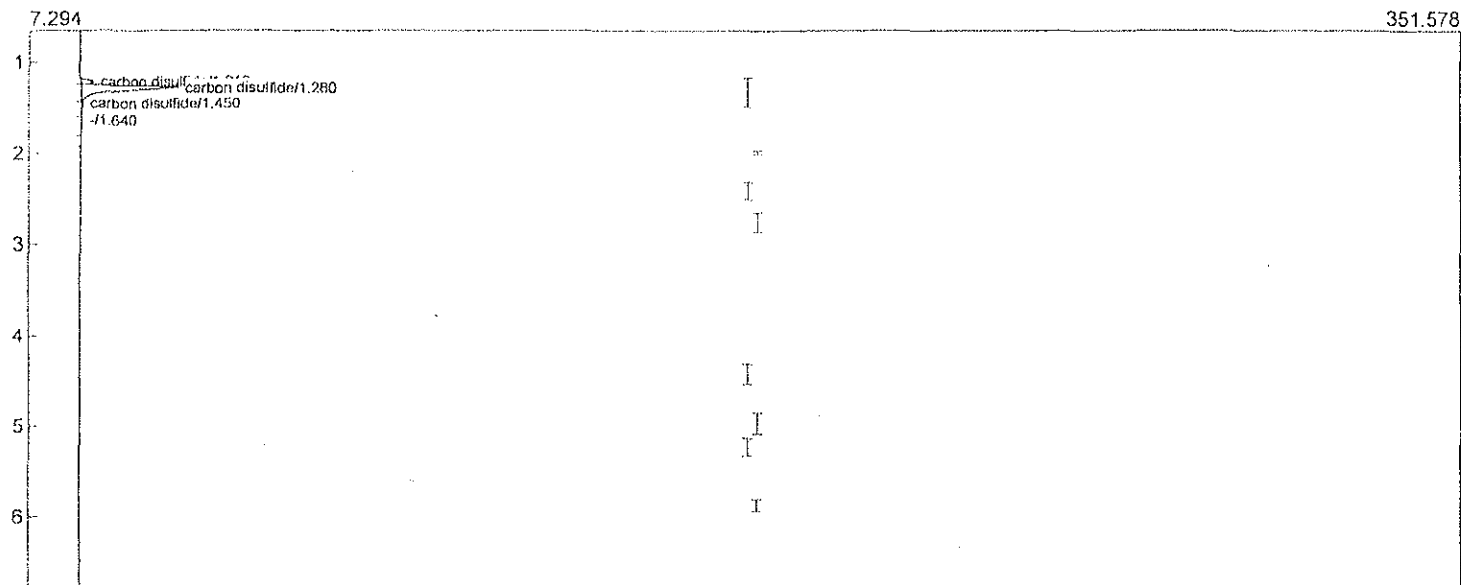
Lab name: Clean Harbors Lab
 Analysis date: 01/10/2012 11:58:38
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5116 BRINE GB01. (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-10-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.213	7.8396	3.136	0.0000	
carbon disulfide	1.280	83.4512	23.433	0.0000	
carbon disulfide	1.450	2.7686	0.561	0.0000	
		94.0794		0.0000	

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date:

12-14-11

Lab #:

5814

Sample ID & Date:

Brine B1

11-13-11

Analyst:

GR

Method: EPA: SW-846; 8010, 8015B, 8021B
HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.359	96.3
Toluene	BMDL	ppm	0.353	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.156	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature:

ME

**Clean Harbors
Brine (Calcium Chloride) Lab Analysis**

Analysis Date: 12-14-11
 Lab #: 5814
 Sample ID & Date: Brine B1 11-13-11
 Analyst: DW

Test	Results	Units	Plan Specifications	Customer Specifications	Outside Parameter
Sp. Gravity	1.38		1.39-1.41 @ 70F	1.39 or higher	✓
pH	8.23		6.0-8.0	7.0-9.0	
Sulfide	ND	PPM	10 ppm max		
TOC	84.25	PPM	50 ppm max		✓
Carbonate	4500	PPM	500 ppm max		
Turbidity	>800	NTU	50 NTU max		✓
Alkali Chlorides	45	%		5% max	
MgCl2	30.90	ppm	1.5% max	1.5% max	
Barium (Ba)	27.92	PPM	200 ppm max		
Iron (Fe)	.007	PPM	10 ppm max	15ppm max	
Lead (Pb)	0.83	PPM	10 ppm max		
Magnesium (Mg)	30.9	PPM			
Sodium (Na)	8805	PPM			
Potassium (K)	12560	PPM			
Total Mg, Na, K	2.13	%	2.5% max		

Sample Description & Comments:

Supervisor Signature: _____

Jessica Ewins

Clean Harbors
Brine (Calcium Chloride) Lab Analysis

Analysis Date:

12-14-11

Lab #:

5815

Sample ID & Date:

Batch 2 Brine 11-13-11

Analyst:

GB

Method: EPA: SW-846; 8010, 8015B, 8021B

HP-6890 Gas Chromatograph

Standard	Results	UOM	MDL	% Recovery
Trichloroethylene	BMDL	ppm	0.257	101.4
MIBK	BMDL	ppm	0.369	96.3
Toluene	BMDL	ppm	0.358	98
Chlorobenzene	BMDL	ppm	0.204	96.3
Ethylbenzene	BMDL	ppm	0.156	106.3
m,p xylene	BMDL	ppm	0.225	99.9
o-xylene	BMDL	ppm	0.231	109.3

Sample Description & Comments:

*BMDL - Below minimum Detection Level

Supervisor Signature:

M. Beany

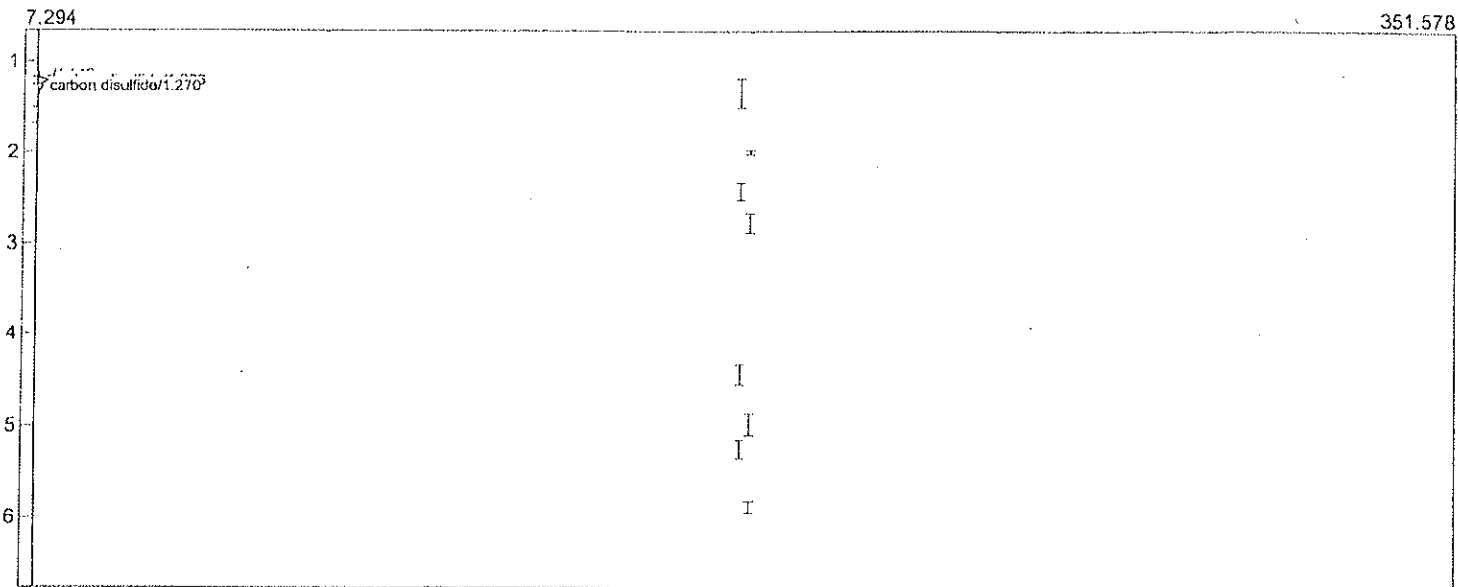
Lab name: Clean Harbors Lab
 Analysis date: 01/11/2012 09:39:11
 Method: Syringe Injection
 Description: Channel 2
 Column: RESTEK 15METER MXT-1
 Carrier: HELIUM AT 5 PSI
 Data file: 5815 BRINE GB06.CHR (C:\Users\chemist\Desktop\Peak393-32 Folder\JANUARY 2012\01-11-12)
 Sample: RUN1

Temperature program:

Init temp	Hold	Ramp	Final temp
35.00	5.000	20.000	200.00
200.00	0.000	50.000	250.00

Events:

Time	Event
------	-------

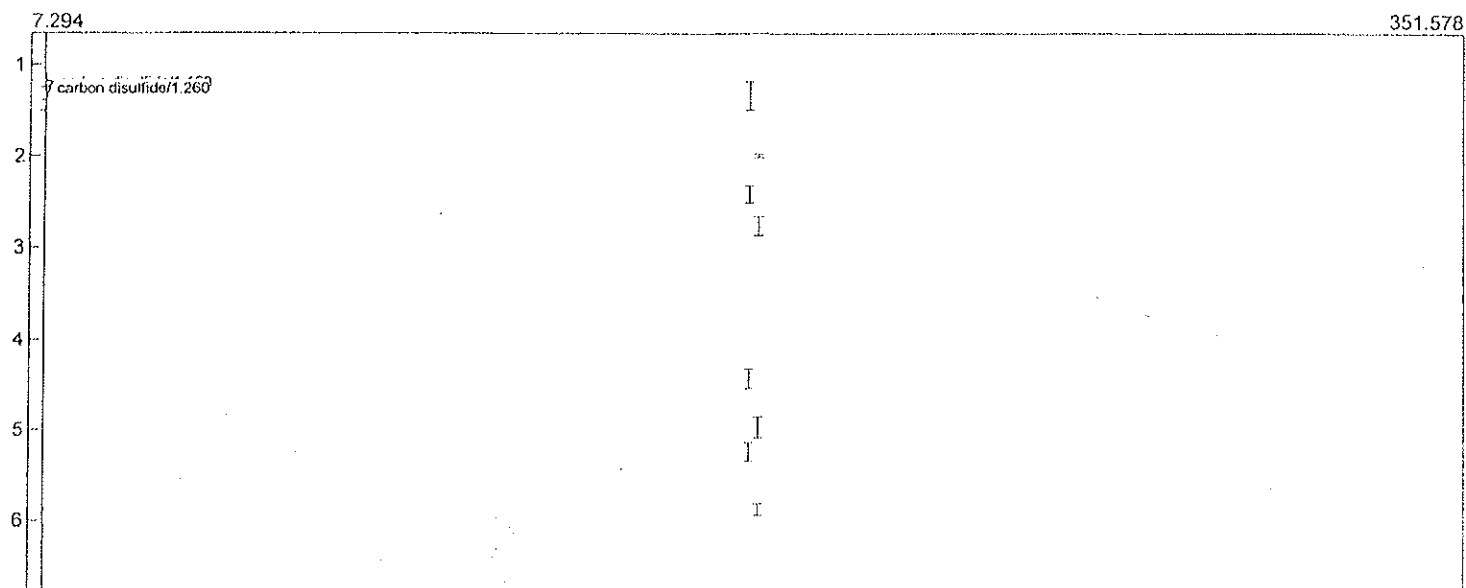


Component	Retention	Area	Height	External	Units
carbon disulfide	1.206	6.9646	2.344	0.0000	
carbon disulfide	1.270	5.5604	1.121	0.0000	
		12.5250		0.0000	

Temperature program:

Events:

Time	Event
------	-------



Component	Retention	Area	Height	External	Units
carbon disulfide	1.193	5.4521	1.923	0.0000	
carbon disulfide	1.260	4.9084	1.297	0.0000	
		10.3605		0.0000	